

NOTICE TO THE BAR

EXPANSION OF RULE 1:20-19 – APPOINTMENT OF TEMPORARY ATTORNEY-TRUSTEE IN EMERGENT SITUATIONS

As presently written, Rule 1:20-19(a) permits the Assignment Judge to appoint a regular attorney-trustee when there is no known responsible party to handle the affairs of an attorney who has been suspended, disbarred or transferred to disability-inactive status; who cannot be located or has died; or who has abandoned the law practice. This notice is to advise that the Supreme Court has adopted an amendment to that rule, effective September 1, 2008, that allows the Assignment Judge to address situations in which an attorney is not before the disciplinary system and has not abandoned the practice, but an emergent condition has rendered the attorney temporarily unable to carry on the practice, thereby leaving clients at risk.

New subparagraph (a)(2) will authorize the Assignment Judge to take any immediate necessary action, subject to due process, to create a temporary attorney-trusteeship, following the same procedures and conditions that apply to regular attorney-trustee appointments. The purposes of this amendment are both to protect the client's interests and also to maintain the lawyer's practice (subject to clients' consent) pending a report and determination of the attorney's ability to resume the practice.

As with a regular attorney-trustee, a temporary attorney-trustee must maintain the confidentiality of client information, has immunity from liability, and may seek reimbursement for costs and expenses pursuant to existing paragraphs (c), (e) and (h) of Rule 1:20-19. The temporary attorney-trustee also must file the reports required by paragraph (d) of the rule, and may apply for reduced legal fees after 30 days from the date of the appointment. The subject attorney may apply at any time to the Assignment Judge for an order vacating the temporary trusteehip.

David E. Johnson, Jr., Director
Office of Attorney Ethics

Dated: August 8, 2008