Local Special Proceedings Rule 98.18
COURT-CREATED TRUSTS

(a) Special Needs Trusts and Trust governed by SPR 98.16W shall be approved in accord with the following requirements:

(1) A copy of the proposed trust document, note for hearing and trustee's fee schedule shall be submitted to the Guardianship Monitoring Program one week in advance of the hearing. The entire matter may be presented Ex Parte with the Clerk's office, unless notice has been requested by another party.

(2) An independent Guardian Ad Litem, specifically qualified in the area of court-created trusts, must be appointed to evaluate the proposed trust unless:

(a) The Court has ordered that the trust be drafted by independent trust counsel; or

(b) The basis for eligibility for a special needs trust in a physical disability only and the adult beneficiary is competent. However, the Court may, in its discretion, appoint a Guardian ad Litem for an otherwise competent beneficiary if it determines that he or she may not fully appreciate all the issues involved in creating the trust.

(3) The proponent of a trust must identify any other roles expected for trustees or members of a trust advisory committee in the life of the beneficiary. This would include caregivers, professional advisors, family or others who might receive direct or indirect economic benefit from trust expenditures.

(4) The order approving the trust may only be entered in a file with a probate/guardianship type "4" case assignment number to facilitate tracking. The order must have space designated on the face page to highlight due dates for accountings and other required filings. The trust document must be filed in the Superior Court file.

(5) The trustee is required to furnish annual accountings to the Court for approval on notice to any interested parties.

(6) The trust may not provide for removal to another venue or jurisdiction without order of this Court.

(7) A parent of a minor beneficiary is not the sole trustee or, if co-trustee, is not able to authorize a trust disbursement without Court approval.

(8) The appointment of any successor trustee is subject to approval of the Court.

(9) A trustee, other than a bank or trust company, is required to post a bond in the full amount of trust funds not placed in blocked accounts.

(10) Amendment of the trust shall only be by order of this Court.

(11) The trustee must file an inventory with the Court within 30 days of the funding of the trust. An amended inventory must be filed within 30 days if additional funding, in excess of $3,000, takes place after the filing of the initial inventory.

(12) The trustee must file with the Court an outline of thebeneficiary's projected needs and significant trust expenditures within 30 days of their appointment and annually at the time of each accounting to the Court.

[Adopted effective September 1, 2009]