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Appellate Activism: Using The Appellate Division's Original Jurisdiction To Reduce The Time And Money Spent On Family Matters In New Jersey

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Although precedent suggests that New Jersey's appellate judges must be cautious when encroaching into areas best left to the expertise of the family court, there are often times on appeal when a sufficient factual record exists for the Appellate Division to decide any lingering questions without the need for a further remand. The objective of this article is to show that by invoking its original jurisdiction authority, the Appellate Division can reduce the time and resources spent on family-related litigation. Indeed, the appellate court should not hesitate to invoke original jurisdiction when deciding contentious family matters that have been the subject of prolonged litigation. Part I of this article discusses the financial and emotional burden that litigation places on families, while Part II addresses the basis of the Appellate Division's original jurisdiction authority and the benefits of its use. Part III analyzes recent family cases where the Appellate Division used its original jurisdiction power, providing practitioners with concrete examples of when the authority can be properly invoked to bring about a timely end to litigation. Finally, Part IV assesses how to prevent the appellate court from overreaching into areas best left to the Family Part.

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