

A PRACTITIONER'S GUIDE TO NEW JERSEY'S CIVIL COURT PROCEDURES



NOTICE

This document provides procedural guidance to practitioners in the New Jersey Superior Court, Law Division, Civil Part. It was prepared under the supervision of the Conference of Civil Presiding Judges, along with the Conference of Civil Division Managers and the Civil Practice Division of the Administrative Office of the Courts (AOC). This document is intended to embody the policies adopted by the New Jersey Supreme Court, the Judicial Council and the Administrative Director of the Courts, but does not itself establish case management policy. It has been reviewed by the Judicial Council and the Conference of Civil Presiding Judges and is intended to promote uniform practices and procedures statewide.

While this document reflects court policies existing as of the date of its preparation, in the event there is a conflict between its contents and any Rule or statement of policy issued by the Supreme Court, the Judicial Council, or the Administrative Director of the Courts, that Rule or statement of policy, rather than this document, will be controlling.

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SECTION 1 : CASE INITIATION

a. *Procedure for Instituting a Civil Case*

Most cases are initiated by the filing of a complaint. See *R. 4:2-2*. The complaint shall contain:

- a brief statement indicating the grounds upon which the court's jurisdiction depends, *e.g.*,
 - a party to the claim resides in the filing county
 - the cause of action occurred in the filing county
 - affected real property, as set forth in the complaint, is located in the filing county (see *R. 4:3-2*);
- a brief statement of the claim showing that the pleader is entitled to relief;
- the "wherefore" clause, generally demanding judgment for the relief sought (See *Botta v. Brunner*, 26 *N.J.* 82 (1958) regarding the proscription on including a specific dollar amount);
- the certification, stating that there is no other pending court action arising from the cause of action set forth by the complaint (see *R. 4:5-1(b)(2)*); and
- the original signature of an attorney duly licensed to practice in New Jersey or *pro se* plaintiff, if a *pro se* appearance is permitted by the court rules (*i.e.*, papers submitted on behalf of a corporation must be signed by a New Jersey licensed attorney).

Civil cases can also be initiated by way of a verified complaint (*i.e.*, one that is sworn to) and an Order to Show Cause (OSC). The filing fee for this is \$200.00 for the verified complaint and \$30.00 for the OSC. This alternative procedure is used where the plaintiff in the particular case requires some emergent relief or the matter involves a summary action pursuant to *R. 4:67* or an action under *R. 4:70-1* for the enforcement of a statutory penalty. Examples of summary actions under *R. 4:67* that must be brought by way of verified complaint and OSC include:

- Actions to expunge a voluntary or involuntary civil commitment. *N.J.S.A. 30:4-80.9*.
- Actions by insured to compel UIM arbitration after settlement with a tortfeasor. See *R. 4:67 et seq.* and *Rutgers Cas. Ins. Co. v. Vassas*, 139 *N.J.* 163, 174 (1995).

- Actions to discharge a construction lien. *N.J.S.A. 2A:44A-30.*
- Proceedings to obtain money deposited pursuant to a lien on real estate. *N.J.S.A 2A:56-20.*
- Appeals by police officers pursuant to *N.J.S.A. 40A:14-150.*
- Appeals by investigators in the county prosecutors' offices pursuant to *N.J.S.A. 2A:157-10.7.*
- Controversies between execution creditors as to application of money realized from the sale of the property of a judgment debtor under executions issued out of different courts. *N.J.S.A. 2A:17-6.*
- Actions for enforcement of written agreement for alternative resolution. *N.J.S.A. 2A:23A-4.*
- Actions to challenge an election. *N.J.S.A.19:28-1 et seq.*
- Actions for cancellation or discharge of a mortgage loan. *N.J.S.A. 46:10B-6.*
- Actions to confirm, vacate or modify an outside arbitration award including a fee arbitration award entered pursuant to *R. 1:20A et seq. N.J.S.A. 2A:23A-26.* It should be noted that if a suit was pending prior to the matter going to fee arbitration, a summary action should not be filed. Rather, default can be entered pursuant to *R 1:20A-3 (e).* See *R. 1:20A-3 (e).*
- Actions for civil penalties for violations of the animal cruelty laws. *N.J.S.A. 4:22-17.*
- Actions to recover wages paid at less than the minimum wage. *N.J.S.A. 34:11-56.40.*
- Actions by crime victims to recover the proceeds of sale of criminal memorabilia. *N.J.S.A. 52:4B-28.*
- Actions for a determination of costs and expenses when the court vacates arbitration awards. *N.J.S.A. 2A:23A-18.*

In either instance, *i.e.*, cases initiated with complaints or verified complaints with an OSC, service of the above on the defendant is required, along with a summons (see *R. 4:4-1*). However, when a case is initiated via a verified complaint and OSC, the signed OSC serves as original process and no summons is needed. Attached in the appendix are standard form OSC's for use as original process. See AOC Directive #16-05. As will be discussed, service of complaints may be effectuated by personal delivery upon the defendant by an approved agent, *e.g.*, Sheriff's Officer or private process server (*R. 4:4-*

3). Failure to serve the complaint may result in the case being dismissed in accordance with R. 1:13-7.

b. Case Information Statements

Every complaint must be accompanied by a completed and signed Case Information Statement (CIS) and the appropriate filing fee. See R. 4:5-1. The CIS must be signed by an attorney admitted to practice in New Jersey or a *pro se*, provided that a *pro se* appearance is permitted pursuant to the Rules of Court. A *pro se* cannot sign a CIS on behalf of a corporation. Original signatures must appear on the CIS. CIS forms may not contain stamped or facsimile signatures or anything other than an original. If pleadings are filed along with a CIS not containing an original signature, these will be returned to the sender stamped “received but not filed.” See R. 1:5-6(c). The CIS is a brief statement that identifies the case type and contains information about the case including the degree of complexity and complementary dispute resolution eligibility, as well as any special accommodations required for the timely resolution of the case. Rule 1:5-6(c) permits the court to reject any complaint not signed or submitted with the appropriate fee or the required completed CIS or on paper of standard weight and quality in accordance with R. 1:4-9. The CIS form appears as Appendix XII-B to the *Rules of Court* and is also included as an appendix to this document.

c. Wordprocessed CIS Forms

Civil case management staff in all counties have been directed that CIS forms produced on an attorney’s wordprocessor must be accepted so long as all the information on the Supreme Court-approved form, as it appears as the Appendix XII-B to the *Rules of Court*, is present and in the same format or placement.

d. CIS not Required for Motions that are First Pleadings

A CIS must be filed with first pleadings only, and “pleadings,” pursuant to R. 4:5-1(a), do not include motions. Thus, even if a motion is the first *paper* filed by a party, no CIS need accompany it.

e. Weight of Papers Submitted for Filing

Rule 1:4-9 requires that papers submitted to the court for filing must be of standard weight and quality for copy paper. Papers submitted that are not in accordance with the requirements of this rule may be rejected for filing pursuant to R. 1:5-6(c).

f. No Stipulations to Enter Suit Without Process

Parties seeking court approval of a private settlement entered into on behalf of a minor or mentally incapacitated person may not file a stipulation to enter suit without process. The proper procedure is to file a complaint and CIS along with the applicable \$200 filing fee. Thereafter, the matter will be scheduled for a friendly hearing pursuant to R. 4:44.

g. Petitions for Obtaining Depositions in Aid of Foreign Litigation

Rule 4:11 prescribes the procedure for out-of-state counsel to use when filing a New Jersey action to obtain a deposition in aid of a case pending in a foreign jurisdiction. A kit has been developed for use in such actions. A copy appears in the appendix and on the Judiciary website. A CIS is not required insofar as the filer is not a “party” in a pending New Jersey case, as contemplated by R. 4:5-1(b)(2).

h. Requests for Letters Rogatory

A letter rogatory is a formal written communication from one court in which an action is pending to a court in a foreign jurisdiction (interstate or international) requesting that the testimony of a non-party witness be taken within its jurisdiction for the use of the court making the request. Under R. 4:11-5, a deposition of a non-party resident may be taken “... in accordance with a commission or letter rogatory issued by a court of this state, which shall be applied for by motion on notice...” A commission or letter rogatory shall be issued in accordance with R. 4:12-3, on application and notice. Once a judge has issued an order for a letter rogatory, the Clerk of the Superior Court in Trenton must affix the seal of the court to the letter rogatory. The party seeking the deposition must then apply to the foreign state court pursuant to the law of the foreign state.

i. Actions Seeking Titles to Abandoned Motor Vehicles

Individuals or entities seeking titles to abandoned motor vehicles should contact the Motor Vehicle Commission. There is an administrative procedure available and lawsuits in the Superior Court no longer need to be instituted.

j. Requests to Change Birth Certificates

If a request is made to change the name on a birth certificate, a name change action must be commenced. If the request is to change anything else on a New Jersey issued birth certificate, such as designation of parentage, a misspelling of the first, middle or last name, or misstatement as to gender, the requestor should be directed to contact the New Jersey Registrar of Vital Statistics (“the Registrar”). See *N.J.S.A. 26:8-49*.

Specifically, with respect to an error in a first or middle name, the individual seeking a correction must supply documentary proof of the correct spelling and the proof has to be something from before the individual's 7th birthday, such as a baptismal certificate, school records, etc. This goes through the Registrar and the court is not involved.

With respect to an error in the last name, the individual seeking a correction must show documentary proof of the correct name and the documentation itself must date from within a year of the individual's birth or prior to the birth, such as the parent's marriage certificate with the last name spelled correctly, the birth certificate of an older sibling, or a parent's birth certificate. This also goes through the Registrar and the court is not involved.

With respect to an error in gender on the birth certificate (that is, if someone who is and has always been a male is mistakenly classified on the birth certificate as a female), the individual seeking a correction must show documents with the correct gender noted, such as school records, marriage certificate, etc. This, too, goes through the Registrar and the court is not involved.

With respect to someone who has undergone gender reassignment and wants both a name change and a gender change on the birth certificate, that individual can get a birth certificate in the new name with the court-ordered name change, but the gender will not be changed unless the person has a **notarized statement from the physician certifying the completion of the gender reassignment**. Once this latter document is presented to the Registrar, the individual can get a new birth certificate showing both the new name and the new gender. In this scenario, then, the court is involved to order the name change but everything else is done through the Registrar.

k. Wage and Hour Appeals

According to *R. 4:74-8*, a notice of appeal from any judgment obtained in the Wage Collection Section of the Department of Labor and Industry (now known as the Department of Labor and Workforce Development) shall be filed in the office of the deputy clerk of the Superior Court in the county in which the subject employment is located and shall briefly describe the judgment and state that the party appeals therefrom. The case type code to be used is 801-summary action. Either party may obtain a hearing of the appeal on 10 days' notice to the other party. The filing fee for such matters is \$75 and no CIS is required. It should be noted that if a wage and hour action is brought as an original summary action in the Superior Court, rather than having been brought initially in the Department of Labor and Workforce Development, this matter must be filed in conformance with *R. 1:5-6(c)*. The filing fee is \$200, and the case type code to be used is 599, contract/commercial transaction.

l. Late Notice of Claim Against a Public Entity

At times, the first paper filed by a plaintiff is a motion requesting the court's permission to file a late notice of claim against a public entity, such as the State of New Jersey, a county or municipality. Such motions are filed because the plaintiff failed to timely notify the public entity of his or her claim as required by *N.J.S.A. 59:8-7* and *-8*, which provide that, within 90 days after the cause of action arose, *e.g.*, the date of an accident, the claimant must file a notice of claim with the Attorney General of the department or agency involved in the alleged negligent act. The plaintiff must then wait six months (after the date the notice of claim is received) before filing a complaint in court. The six-month waiting period is to allow the public entity against which the claim is made to investigate and, if appropriate, to negotiate a settlement. The claimant must also file suit within two years of the accrual of the cause of action.

Sometimes, however, claimants fail to file the notice of claim with the Attorney General or other governmental department or agency within 90 days of the accrual of the cause of action, as required by *N.J.S.A. 59:8-8*. *N.J.S.A. 59:8-9* provides for late notices of claim to be filed, if permission to do so is granted by the court, within one year of the accrual of the cause of action.

Claimants must make a motion to the court for permission to file a late notice of claim. The fee for such a motion is \$200 since it is the party's first paper. The motion is given a docket number.

When the motion is decided, whether it is granted or denied, it counts as a termination and the "case" is closed.

If the motion is granted and, after the six-month waiting period, the claimant files a complaint, the matter is reopened under the original docket number. No additional fee is required.

m. Proceedings by Indigents Seeking Waivers of Filing Fees

Rule 1:13-2 sets forth the procedure to be used for seeking a determination of indigency status and waiver of filing fees. A sample form for use in such instances appears in the appendix.

n. Venue

Venue refers to the particular county in which a court with jurisdiction may hear and determine a case because that county has some relationship to the particular dispute.

In New Jersey, pursuant to *R. 4:3-2*, venue in civil cases shall be laid (designated) by the plaintiff in Superior Court actions as follows:

- actions affecting real property are brought in the county where the affected property is situated;
- actions not affecting real property which are brought by or against municipal corporations, counties, public agencies or officials, are brought in the county in which the cause of action arose;
- in all other actions, with few exceptions (see *R. 4:3-2*), venue shall be laid in the county in which the cause of action arose, or the county in which any party to the action resides, or in any county where summons was served on any non-resident defendant; or
- actions on and objections to certificates of debt for motor vehicle surcharges that have been docketed as judgments by the Superior Court Clerk pursuant to *N.J.S.A. 17:29A-35* shall be brought in the county of residence of the judgment debtor.

Moreover, according to *R. 4:3-2(b)*, a corporation is deemed to reside in the county in which its registered office is located or in any county in which it is actually doing business.

Finally, *R. 4:3-2(c)* provides that with the approval of the Chief Justice, the Assignment Judge of any multicounty vicinage may order that instead of laying venue in a county of the vicinage pursuant to *R. 4:3-2*, venue in any designated category of cases may be laid in any other county within the vicinage.

o. Jury Demand

Any party to most civil actions may demand a trial by jury. (See *Rules 1:8-1* and *4:35-1*) By filing certain summary actions, a party is deemed to have waived the right to a jury trial. See *R. 4:67-4(b)*. The jury demand must be made with the filing of the party's initial pleading only or within 10 days thereafter. The jury demand may specify the issues to be tried by jury; otherwise the demand will be deemed to apply to all triable issues. The failure of a party to demand a jury will be considered a waiver of trial by jury. See *R. 4:35-1*. In civil actions, a jury will consist of six (6) people unless the court for good cause shown orders a jury of twelve (12) persons or the parties agree to be bound by the verdict of another number of jurors. See *R. 1:8-2*.

SECTION 2 : PARTIES

a. Types of Parties

The following are parties in civil actions:

- **Plaintiff** - person who sues
- **Defendant** - person who is sued
- **Guardian** - person appointed to represent the interests of another with a disability (*e.g.*, minor, incapacitated person)
- **Executor** - person named in a will to carry out the terms of the will, suing or defending on behalf of the estate of a decedent
- **Administrator** - person suing or defending on behalf of an estate when the decedent died without a will
- **John or Jane Doe** - fictitious defendant designation used when the true identity of the defendant or potential defendant is unknown
- **ABC Corporation** - fictitious defendant designation used when the true identity of a corporate defendant or potential corporate defendant is unknown
- **Crossclaimant** - defendant suing another defendant on a crossclaim
- **Counterclaimant** - defendant suing a plaintiff on a counterclaim
- **Intervenor** - a third party who voluntarily requests to participate in a lawsuit and is permitted by the court. See *R. 4:33 et seq.*
- **Interpleader** - party suing two or more persons claiming the same thing or fund and requesting that the court determine between or among them which is entitled to recover it
- **Third Party Plaintiff** - party suing a non-party to the original suit on a third party complaint
- **Third Party Defendant** - party being sued in a third party complaint.

b. Papers Submitted By Non-Parties

When papers are submitted by or on behalf of individuals not named in the complaint, other than papers submitted by intervenors, or amicus briefs, the papers will be returned by the court stamped “received but not filed.” Similarly, if papers are submitted by a law firm, other than co-counsel, that is not the attorney/firm representing the party on whose behalf the papers are being submitted, the papers will be returned “received but not filed.”

SECTION 3 : TYPES OF CASES

a. Case Type Definitions

There are many different types of cases filed in the Law Division, Civil Part of the Superior Court. These include:

Action in Lieu of Prerogative Writs (case type code 701) - appeal from a decision of or failure to act on the part of a local governmental body, such as a Zoning Board of Adjustment or Planning Board; limited to an appeal on the record below. These matters are governed by *R. 4:69-4*.

Rule 6:1-2 sets forth with specificity those types of actions that are cognizable in the Special Civil Part and since Actions in Lieu of Prerogative Writs are not included among the types of actions listed, such actions are not cognizable in the Special Civil Part and thus may not be filed there. See also *R. 4:69-1* and AOC Directive #2-01.

These cases are assigned to Track IV to ensure individual judge management, even though most will not need 450 days' discovery. An informal conference, by telephone or in chambers, must be held within 30 days of joinder to determine factual and legal disputes, mark exhibits, establish a briefing schedule, and if necessary, a discovery schedule. At least five days before the conference, parties shall submit a statement of factual and legal issues and an exhibit list to the managing judge. The complaint must be accompanied by a certification that transcripts of hearings have been ordered.

Rule 4:69-4 was amended effective September 1, 2004 to provide that the discovery to be conducted, if any, and the time to complete such discovery, will be determined at the informal conference and memorialized in the case management order.

action on a negotiable instrument (511) - suit seeking damages for the defendant's failure to honor obligations pursuant to a written instrument such as a check. These actions usually involve a dishonored check.

assault and battery (602) - action seeking damages for unlawful contact.

auto negligence (603) - personal injury - action seeking damages for bodily injuries arising out of the negligent ownership and/or use of a motor vehicle.

auto negligence (610) - property damage - action seeking damages for damage to property arising out of the negligent ownership and/or use of a motor vehicle.

book account (502) - action for the collection of an unpaid bill for goods or services provided.

civil rights (005) - action brought pursuant to the Federal Civil Rights Act, 42 U.S.C. 1983, which establishes a civil action for the deprivation of constitutionally protected rights.

complex commercial (508) - commercial matters involving unusually complex factual or legal issues.

complex construction (513) – construction matters involving unusually complex factual or legal issues.

condemnation (301) - action also known as eminent domain, brought by a governmental entity seeking to take private real property for a public use and after payment of just compensation.

A condemnation action is instituted by the filing of a verified complaint, which must include a statement of the compensation offered by the condemnor and the manner in which the amount was calculated. See *R. 4:73-1*. The matter will proceed in a summary manner under *R. 4:67*. Within 14 days of the filing of the complaint, the condemnor must file and record in the county recording office a notice of the pendency of the action (*lis pendens*). The condemnor must also file a declaration of taking in the court and the county recording office. Simultaneously, the condemnor must deposit with the clerk of the court the amount of the estimated compensation. Once the declaration has been filed and the compensation paid to the clerk of the court, the title and the right to immediate and exclusive possession to the property belongs to the condemnor.

The court will appoint three commissioners to fix the amount of compensation. Regarding the fees paid to condemnation commissions, refer to section 21. The presiding commissioner will schedule a hearing date at which testimony is taken regarding the value of the property. No discovery occurs during this phase of the case. The commissioners' report is to be filed within four months of their appointment, unless the court extends the time. If there is no appeal from the commissioners' determination of the amount of compensation, the award is considered a final judgment to be paid within 60 days.

Appeals from the commissioners' report are made by filing a notice of appeal with the Clerk of the Superior Court within 20 days after service of the commissioners' report. If this is the party's first paper, the filing fee must be paid. Discovery may be done during this phase. Pursuant to *R. 4:73-6(a)*, unless the court otherwise orders, if the original action involves taking or takings from a tract of land under single ownership, the appeal shall be docketed under the docket number assigned to the original action and shall continue in that action. A party

may demand a trial by jury within 10 days after service of the notice of appeal. The hearing on appeal is a trial *de novo*.

construction (305) - dispute arising out of a construction agreement or arrangement.

contract/commercial transaction (599) - action based upon the failure to honor the terms of an oral or written agreement/or arising from a business dispute.

defamation (609) - action seeking damages due to the publication, either orally (slander) or in writing (libel), of false information concerning another.

employment (509) - dispute arising out of an agreement between an employer and employee.

environmental/environmental coverage litigation (156) - action based upon damage to the environment or against an insurance company by an insured seeking coverage pursuant to an insurance contract or policy to remediate or compensate the insured for damage to the environment.

forfeiture (175) - action by the government seeking ownership of personal property either used as an instrumentality of a crime or the fruits of criminal activity. A civil forfeiture proceeding must normally be instituted by the State within 90 days of the seizure for property, unless the property forfeited is considered to be what the applicable statute, *N.J.S.A. 2C:64-3*, considers to be “prima facie contraband”. See *N.J.S.A. 2C:64-3*. Examples of “prima facie contraband” are untaxed cigarettes, controlled dangerous substances, firearms and gambling devices. Forfeiture will be denied if the action is not timely filed and the property may be returned to the owner. The complaint must be verified and must describe with particularity the property, which is the subject matter of the action and the reason for the forfeiture. Often in forfeiture cases a thing, such as a car or money, is named as a defendant. This is called a “chattel defendant.”

N.J.S.A. 2C:64-3 permits the court to stay a forfeiture until the underlying criminal case is concluded. Other than for lack of prosecution, forfeiture should not be dismissed as the State will lose jurisdiction over the res. Thus, if the case is not stayed and if applicable, lack of prosecution dismissal notices will issue as to named human or corporate defendants only. Once the case is closed as to all such defendants, all chattel defendants may be dismissed.

The prosecutor will thus receive notice of dismissal as to one chattel defendant only. When the case is closed as to that chattel defendant, it may be dismissed as to the remaining chattel defendants without further notice.

insurance fraud (514) – action alleging damages resulting from a fraudulent insurance claim.

inverse condemnation (617) - action brought by owner of real property seeking damages compensating the owner for a taking of the owner's private real property for a public use.

Law Against Discrimination (LAD) (618) - action seeking damages pursuant to *N.J.S.A. 10:5-1 et seq.*, commonly known as the New Jersey Law Against Discrimination, which makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex, familial status, marital status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, mental or physical disability, perceived disability, and AIDS and HIV status. The LAD prohibits unlawful discrimination in employment, housing, places of public accommodation, credit and business contracts.

lemon law (512) - suit pursuant to *N.J.S.A. 56:12-29 to -49*, commonly known as the New Jersey Lemon Law, brought by the purchaser or leaser of a new motor vehicle against the car dealer who sold the vehicle seeking damages because the vehicle was faulty. The law seeks to ensure that the manufacturer of the vehicle fixes any problems or defects that were originally covered under the manufacturers' warranty and which were reported by the owner within 2 years or 18,000 miles whichever comes first.

medical malpractice (604) – action against a healthcare provider for injuries arising from negligence in acting or failing to act.

In *Ferreira v. Rancocas Orthopedic Associates*, 178 N.J. 144 (2003) and *Knorr v. Smeal*, 178 N.J. 169 (2003), the Supreme Court mandated a case management conference in all professional malpractice cases. This conference must be held within 90 days of the service of the answer. During the conference, the court must address discovery issues, and whether an affidavit of merit has been served on the defendant.

These conferences may be held by telephone.

When there are multiple defendants in a malpractice case, requiring service of the affidavit of Merit on each, only one conference need be held.

The Court-mandated case management conference must be:

- conducted by a judge in all professional malpractice cases (unless all parties consent to a staff-conducted conference), and memorialized in a case management order pursuant to *R. 1:2-6*; and

- held unless all counsel consent to waive the conference, and agree that the Affidavit of Merit has been provided and that the defendant waives objections to its adequacy, with such consent, agreement and waiver memorialized in a consent order signed by all counsel and the judge.

A party filing an affidavit of non-involvement pursuant to *N.J.S.A. 2A:53A-40* in accordance with the *New Jersey Medical Care Access and Responsibility and Patients Trust Act*, shall do so by annexing the affidavit, which shall comply with *R. 1:6-6*, to a Notice of Motion for dismissal of the action as to that party. Pursuant to *R. 1:6-6*, if a motion is based on facts not appearing of record or not judicially noticeable, the court may hear it on affidavits made on personal knowledge, setting forth only facts which are admissible in evidence to which the affiant is competent to testify and which may have annexed thereto certified copies of all papers or parts thereof referred to therein. The court may direct the affiant to submit to cross-examination, or hear the matter wholly or partly on oral testimony or depositions.

If no opposition to the motion is filed, in accordance with *R. 1:6-3*, an order shall be entered dismissing the action as to the moving party. If opposition to the motion is filed, the court shall proceed in accordance with *R. 1:6-2*.

Mt. Laurel (303) - actions brought pursuant to the New Jersey Fair Housing Act, *N.J.S.A. 52:27D-301 et seq.*, relating to the allocation of a fair share of affordable housing to lower and moderate income families.

Name Change (151) - action to change an individual's or family's name. See section *infra* regarding **"Redaction of Social Security Numbers from Name Change Judgments"**.

Open Public Records Act (OPRA) (802) - summary action brought pursuant to *N.J.S.A. 47:1A-1 et seq.* which provides that certain government records shall be accessible for inspection, copying or examination by New Jersey citizens, with certain exceptions, and provides the process for requesting access and appealing any denial of access.

other insurance claim (505) (including declaratory judgment actions) - suit involving differing interpretations of an insurance policy or a dispute over insurance coverage.

personal injury (605) - action seeking damages for bodily injuries caused by the negligence of another in a context other than in the ownership and/or use of a motor vehicle, usually as a result of negligence in the ownership, use or control of premises.

PIP coverage (506) - suit brought by an insured or a healthcare provider on behalf of the insured against the insured's automobile insurance company for unpaid medical bills or other insurance benefits.

products liability (606) - action against a manufacturer, distributor or seller of goods including pharmaceuticals, seeking damages for injuries suffered as a result of the use of the good.

professional malpractice (607) - action against a provider of professional services, other than a healthcare provider, for injuries or damages arising from a negligent act or failure to act.

These conferences may be held by telephone.

When there are multiple defendants in a malpractice case, requiring service of the affidavit of Merit on each, only one conference need be held.

The Court-mandated case management conference must be:

- conducted by a judge in all professional malpractice cases (unless all parties consent to a staff-conducted conference), memorialized in a case management order pursuant to *R. 1:2-6*; and
- held unless all counsel consent to waive the conference, and agree that the Affidavit of Merit has been provided and that the defendant waives objections to its adequacy, with such consent, agreement and waiver are memorialized in a consent order signed by all counsel and the judge.

real property (399) - suit based upon a dispute over real property and **not** involving a landlord/tenant relationship, contract, condemnation, complex commercial or construction issues.

summary action (801) - action pursuant to *R. 4:67*, seeking an expeditious judicial determination rather than a full-blown trial; usually based upon particular statute. Summary actions should be filed via verified complaint and order to show cause. If these matters are not resolved on the return date of the order to show cause, they must be actively case managed by a judge.

tenancy (302) - action arising from any dispute between a landlord and tenant other than summary dispossession action and actions to recover a security deposit under \$15,000.

tort (699) - other - action seeking damages for injuries to a person or property due to negligent or deliberate conduct other than in the use and/or ownership of a motor vehicle or in the ownership or control of premises, such as intentional

infliction of emotional distress, tortious interference with contract, trespass, malicious prosecution.

toxic tort (608) - action seeking damages due to the emission of a harmful substance into the environment.

UM or UIM claim (510) - action by an insured against the insured's automobile insurance company seeking damages from the insurance company under either the uninsured motorist or underinsured motorist coverage provision of an insurance policy. Under such a provision, if the insured sustains injuries or damages due to an automobile accident caused by the fault of a third person but the third person either is uninsured or is underinsured (*i.e.*, does not have adequate coverage to cover the value of the insured's damages or injuries), the insurance carrier must pay the amount needed to fully compensate the insured.

Whistleblower/Conscientious Employee Protection Act (CEPA) (616) - action filed pursuant to *N.J.S.A. 34:19-1 et seq.* seeking damages due to retaliation against an employee by the employer for 1) disclosing or threatening to disclose to a supervisor or public body an activity, policy or practice of an employer that the employee believes violates a law or regulation, or 2) providing information or testimony to a public body conducting an investigation, hearing or inquiry into any violation of law, rule or regulation by the employer, or 3) objecting to or refusing to participate in any activity, policy or practice which the employee reasonably believes is in violation of the law, is fraudulent or criminal, or is incompatible with a clear mandate of public policy.

b. Mass Torts

There are a number of Track IV cases that have been designated by the Supreme Court, pursuant to *R. 4:38A*, mass tort guidelines and AOC Directive #11-03, as "mass torts" and/or approved for centralized case management. A copy of the guidelines, approved by the Supreme Court on October 23, 2003, appears in the appendix.

Mass tort cases are groups of cases filed in a number of counties and assigned to a single designated judge for centralized case management. These mass tort judges have specialized expertise in the handling of such cases. There are currently three mass tort sites in New Jersey located in Atlantic, Bergen and Middlesex Counties.

In New Jersey, there is no definition of a mass tort. Each group of cases that ultimately are designated as a mass tort do, however, bear a number of common characteristics, as noted in the attached guidelines. There have been three general classes of cases determined thus far in New Jersey to be mass torts. These include:

- large numbers of claims associated with a single product: For example, diet drugs or other large products liability cases such as tobacco, Norplant, breast

implant, asbestos, Propulsid, Rezulin, PPA and latex litigation.

- mass disasters: These cases are characterized by a commonality of technical and legal issues. The Durham Woods pipeline explosion litigation is a good example of this type of case.
- complex environmental cases and toxic torts: These cases are characterized by a large number of parties with claims arising from a common event. An example of this type of case is the Ciba-Geigy litigation.

Some of the possible characteristics of a mass tort include:

- large number of parties involved;
- many claims involving common, recurrent issues of law and fact that are associated with a single product, mass disaster, or very complex environmental or toxic tort;
- geographical dispersment of parties;
- parties having common injuries and damage issues;
- value interdependence between different claims, that is, causation and liability aspects are often dependent upon the success or failure of similar lawsuits in other jurisdictions; and
- degree of remoteness between the court and actual decision-makers in the litigation - *i.e.*, the fact that the simplest of decisions often must pass through layers of local, regional, national, general and house counsel.

The cases currently designated as mass torts are:

Accutane (271) – actions against the manufacturers of Accutane and others for damages arising from its use.

Asbestos (601) - actions against the manufacturers, suppliers, distributors or others for damages arising from the exposure to asbestos.

Bextra/Celebrex (272) – actions against manufacturers of the drugs Bextra and Celebrex and others for damages allegedly caused by ingestion of one or both of these drugs.

Ciba Geigy (248) - actions for damages or medical monitoring arising out of the environmental contamination of the byproducts of chemical manufacturing in Toms River, New Jersey.

Depo-Provera (276) – actions for damages or medical monitoring arising out of the use of the contraceptive Depo-Provera.

Diet Drug (240) - actions against manufacturers, suppliers, distributors, and others for damages due to the use of the diet drugs Redux or Phen-Fen.

HRT (Hormone Replacement Therapy) (266) – actions against manufacturers, sellers, distributors or others for damages arising from the use of Hormone Replacement Therapy.

Lead Paint (702) – actions by municipalities against various manufacturers and distributors of lead-based paint seeking damages including costs of detecting and removing lead-based paint, for providing medical care to lead-poisoned residents and for developing public education programs concerning the hazards of lead-based paint.

Manufactured Gas Plant Litigation (268) – actions arising from the emission of chemicals into the environment by manufactured gas plants over numerous years.

Ortho-Evra (275) – actions against the manufacturer and others for damages arising from the use of the Ortho-Evra Birth Control Patch.

PPA - (Phenylpropanolamine) (264) - actions against the manufacturers, sellers, distributors or others for damages arising from the use of PPA, an ingredient in over-the-counter cold and weight-loss medications.

PPA Coverage (267) – actions relating to insurance coverage issues involving PPA.

Risperdal/Seroquel/Zyprexa (274) – actions against the manufacturers and others of the drugs Risperdal/Seroquel/Zyprexa for damages arising from their use.

Tobacco (241) – actions against manufacturers and others of tobacco products for damages arising from use and exposure to them.

Vioxx (619) - actions against the manufacturers, suppliers, distributors or others for damages arising from the use of the drug Vioxx, an anti-inflammatory medication used to treat arthritis and menstrual pain.

SECTION 4 TRACKS

a. *Track Assignments*

For purposes of managing and providing for the needs of civil cases, the caseload is broken down into discrete categories. Cases are assigned to a track upon the filing of the complaint. The track assignment is based on case type as noted on side 2 of the CIS and each track provides a specific discovery period based on the presumed discovery needs of the case types allocated to the particular track. See *Rules* 1:5-6 and 4:5-1; 4:5A-1, -2, -3.

The four tracks and the discovery period and case types associated with each are:

Track I – 150 days discovery

151	Name Change
175	Forfeiture
302	Tenancy
399	Real Property
502	Book Account (debt collection matters only)
505	Other Insurance Claim (including declaratory judgment actions)
506	PIP Coverage
510	UM or UIM Claim
511	Action on a Negotiable Instrument
512	Lemon Law
801	Summary Action
802	Open Public Records Act (Summary Action)
999	Other

Track II – 300 days discovery

305	Construction
509	Employment (other than CEPA or LAD)
599	Contract/Commercial Transaction
603	Auto Negligence - Personal Injury
605	Personal Injury
610	Auto Negligence - Property Damage
699	Tort - Other

Track III – 450 days discovery

005	Civil Rights
301	Condemnation
602	Assault and Battery
604	Medical Malpractice
606	Products Liability

607	Professional Malpractice
608	Toxic Tort
609	Defamation
616	Whistleblower/Conscientious Employee Protection Act (CEPA) Cases
617	Inverse Condemnation
618	Law Against Discrimination (LAD) Cases

Track IV – Active Case Management by Individual Judge/450 days discovery

156	Environmental/Environmental Coverage Litigation
303	Mt. Laurel
508	Complex Commercial
513	Complex Construction
514	Insurance Fraud
701	Action in Lieu of Prerogative Writs

Mass Tort (Track IV)

240	Diet Drug
241	Tobacco
248	Ciba Geigy
264	PPA
266	HRT
267	PPA Coverage
268	Manufactured Gas Plant Litigation
271	Accutane
272	Bextra/Celebrex
274	Risperdal/Seroquel/Zyprexa
275	Ortho Evra
276	Depo-Provera
601	Asbestos
619	Vioxx
702	Lead Paint
272	Bextra/Celebrex
274	Risperdal/Seroquel/Zyprexa
275	Ortho Evra.

b. Track Assignment Notice

A Track Assignment Notice (TAN) is automatically generated the day after a complaint is entered and is mailed by the court to the plaintiff with the docketed copy of

the complaint or within 10 days of the filing of the complaint. The TAN will advise the plaintiff of the track, team, and judge to which the case has been assigned. The TAN must be attached to, and served with, the summons, complaint and CIS on all parties. See R. 4:5A-2.

c. Track Assignments for Administratively or Procedurally Complicated Cases

Cases that are administratively or procedurally complicated are not necessarily Track IV cases; such cases should be placed and remain on the track to which they are presumptively assigned based upon case type.

d. Change of Track Assignment

A track assignment may be changed either at the outset of a case or as the case develops, as follows:

- Within 30 days of receipt of the TAN, the plaintiff may apply to the court for a change of initial track assignment by filing a certification of good cause.
- Any party other than the plaintiff seeking a change of initial track assignment may file and serve a certification of good cause with its first pleading.
- Objections to the certification of good cause for change of track assignment must be made within 10 days by responding certification.
- The designated pretrial or managing judge, or his or her designee, should respond in writing, *e.g.*, by letter or memo, advising of the court's determination on the application for change of track assignment.
- Any party who is aggrieved by the court's determination on such applications may seek relief by filing a formal motion within 15 days of the entry of the order.
- Subsequent applications to change a track assignment must be made on formal motion or on the court's own motion only if the fundamental cause or causes of action have changed or if the case type or track was erroneously identified on a party's CIS or erroneously entered by staff into the Civil Automated Case Management System (ACMS). See R. 4:5A-2(b).

- A track assignment should not change to accommodate a party's (or the parties') need for a longer discovery period or because of the alleged complexity of the case; rather in such situations, the party(ies) may apply to the pretrial judge for an extension of the discovery end date, which may be granted in accordance with *R. 4:24-1*. See *R. 4:5A-2*.
- Orders directing track changes should also direct a change to the underlying case type in accordance with side 2 of the CIS.

SECTION 5 : SERVICE

a. *Issuance of the Summons*

Rule 4:4-1 provides that the summons must be issued within 15 days from the date of the TAN. Failure to do so may result in dismissal of the action pursuant to *R. 1:13-7*.

b. *Service of the Summons, Complaint, CIS and TAN - - Who May Serve*

According to *R. 4:4-3(a)*, the summons shall be served, together with the complaint (and the required attachments to the complaint which include the CIS pursuant to *R. 4:5-1(b)* and TAN pursuant to *R. 4:5A-2*), by the sheriff, or by a person specially appointed by the court for that purpose, or by plaintiff's attorney or the attorney's agent, or by any other competent adult not having a direct interest in the litigation.

If personal service cannot be made after a reasonable and good faith attempt, which must be described with specificity in the proof of service required by *R. 4:4-7*, service may be made by mailing a copy of the summons and complaint by registered or certified mail, return receipt requested, to the defendant's residence or to the residence of a person authorized by law to accept service for the defendant or, with postal instructions to deliver to addressee only, to the defendant's place of business or employment. If the addressee fails to claim or refuses to accept delivery of the registered or certified mail, service may be made by ordinary mail addressed to the defendant's residence. The party making service may, at the party's option, make service simultaneously by registered or certified mail and ordinary mail, and if the addressee fails to claim or refuses accept delivery of registered mail and if the ordinary mailing is not returned, the simultaneous mailing constitutes effective service. Mail may be addressed to a post office box in lieu of a street address only if the sender cannot by diligent effort determine the addressee's street address or if the post office does not make street address delivery to the addressee. The specific facts underlying service must be recited in the proof of service filed with the court pursuant to *R. 1:5-3*. See *R. 1:5-2*.

c. *Methods of Personal Service*

According to *R. 4:4-4*, the primary method of obtaining personal jurisdiction over a defendant is by causing the summons and complaint to be personally served in New Jersey pursuant to *R. 4:4-3*. *Rule 4:4-4* sets out how personal service may be made on an adult, a minor, a mentally incapacitated person, sole proprietors and real property owners, a partnership, a corporation, the State and other public bodies.

d. Substituted Service

If personal service cannot be made, the rules also provide for substituted service. See *R. 4:4-4(b)* and *R. 4:4-5*. Methods of substituted service include service by mail and service by publication of a notice, and the rules set out the circumstances under which such service may be made as well as the steps attorneys and *pro se* litigants must follow to make substituted service.

Note that *R. 4:4-4(c)* provides for optimal mailed service by registered, certified or ordinary mail instead of personal service, when personal service is required. Service made pursuant to this paragraph of the rule, however, is considered effective *only* if the defendant answers or otherwise appears in response to the complaint. Default may not be entered against a defendant served by mail pursuant to *R. 4:4-4(c)* who does not answer or appear. (This prohibition against entry of default does not apply to mailed service authorized by court order.)

e. Service of Law Division Process by Special Civil Part Officers

Special Civil Part Officers are not permitted to serve Law Division process.

f. Service by E-Mail not Permitted

Absent a special Order of the Court, service by e-mail is not permitted. However, if service by e-mail is acknowledged by an acknowledgement of service, signed by the defendant or defendant's attorney, the acknowledgement may be filed and has the same effect as if the defendant had been properly served. See *R. 4:4-6*.

g. Affidavit of Service Form

An Affidavit of Service form has been developed. A copy appears in the appendix. The form was developed for use by private process servers. A copy of the form is also posted on the Judiciary website at www.njcourtsonline.com.

SECTION 6 : RESPONSIVE PLEADINGS

a. *Answers*

A signed answer must be accompanied by a completed and signed CIS and the appropriate filing fee. Answers and CIS forms must be signed by a New Jersey licensed attorney or *pro se* party, provided that a *pro se* appearance is permitted by the court rules. Thus, an answer and CIS submitted on behalf of a corporation must be signed by a New Jersey licensed attorney. Answers not meeting the paper weight requirements of *R. 1:4-9* or not signed or unaccompanied by the proper fee or CIS or submitted after default has been entered must be returned by the court to the sender stamped “received, but not filed.”

Answers not complying with other court rules, *e.g.*, does not contain the certification of service required by *R. 4:6-1(d)* or signed notices of adoption in lieu of answer accompanied by the correct filing fee and a completed and signed CIS, are filed as “non-conforming.” In such instances, the court may, but it is not required to, provide the filer with notice of the non-conformity as provided by *R. 1:5-6(c)*.

The filing of a non-conforming answer, *e.g.*, without the required certification of service, will trigger the calculation of the discovery end date and block the generation of a dismissal notice.

b. *Counterclaims*

A counterclaim is a claim made by the defendant in a suit against the plaintiff. Since the counterclaim is normally part of the answer, it is served on all other parties in the same manner as an ordinary answer to the complaint. Therefore, there is no need for a summons to accompany the counterclaim. The counterclaim or answer and counterclaim must be accompanied by the applicable filing fee. A counterclaim must be answered or the counterclaim is subject to dismissal pursuant to *R. 1:13-7*.

c. *Crossclaims*

A crossclaim is a claim by a defendant against another named defendant. It must be asserted in an answer to the plaintiff’s complaint. Since the crossclaim is part of the answer, it must be served on all other parties in the same manner as an ordinary answer to the complaint is served. A crossclaim for contribution or indemnification need not be answered. See *R. 4:7-5*.

d. *Third Party Complaints*

A third party complaint or impleader is an action by the defendant that brings a third party not previously named into a lawsuit. The third party complaint must be accompanied by the appropriate filing fee.

A third party plaintiff must serve the third party complaint along with summons, CIS and TAN and must abide by the rules covering service of process. A third party defendant must reply to the complaint or risk having a default entered for failure to respond. If default is not timely filed, the third party complaint may be dismissed pursuant to *R. 1:13-7*.

e. Interpleader

Interpleader is one means of joining multiple parties to a lawsuit and is provided for in *R. 4:31*. Interpleader may occur when the plaintiff possesses a fund to which several persons claim ownership. The plaintiff, who has no personal interest in the fund, interpleads the various claimants for an adjudication of the competing claims. Interpleader is based on the beliefs that adverse claimants should litigate between or among themselves their conflicting rights or claims and that a plaintiff should be protected from exposure to double or multiple liability. Another example of a situation in which an interpleader maybe filed involves a realtor who asks the court to ascertain who is entitled to a deposit held by the realtor after a buyer and seller of real property have a dispute and the agreement to sell the real property is not consummated, leaving the realtor holding a deposit in escrow.

When a plaintiff seeks interpleader, he or she must file a complaint setting forth all the claims which may expose the plaintiff to double or multiple liability and joining all persons having claims as defendants. The complaint usually demands a judgment requiring the defendants to interplead their claims, enjoining them from prosecuting those claims against the plaintiff, discharging the plaintiff from liability and seeking costs. The defendants answer the complaint and assert their claims by cross-claims against each other.

f. Intervention

A party seeking to intervene in a pending civil action must file a motion. The motion must be accompanied by the proposed complaint or answer, a CIS and the applicable filing fee. See *R. 4:33-3*. A party seeking to intervene normally has not suffered a personal harm, as did the plaintiff, but nonetheless may have an interest in the litigation because the litigation may, for example, involve a matter of some greater public significance.

g. Appearances

If an answer has yet to be filed on behalf of a particular defendant, that defendant may not file an appearance. Rather, that defendant must file an answer, accompanied by a CIS and the appropriate fee. If the defendant submits for filing a completed and signed CIS, the appropriate fee and the entry of appearance as the defendant's first pleading,

staff must accept and file the document as a non-conforming answer provided that it meets all requirements of *R. 1:5-6(c)*.

If, however, an answer has been filed on behalf of a particular defendant and a second attorney also representing that same defendant wishes to enter an appearance in the case (*e.g.*, in a dram shop case or an action in which a defendant is being sued beyond the limits of an insurance policy), he or she may do so. No CIS or fee need be submitted with the entry of appearance as this is not the defendant's first pleading. The document is filed simply to indicate that there is a second attorney representing the defendant and to ensure that that attorney receives all court notices.

SECTION 7 : CASE MANAGEMENT

a. *Individual Judge Management of Cases on Tracks I, II and III*

Individual judge management may be available to cases on Tracks I, II, and III, if the court determines it to be necessary, either on the request of a party or *sua sponte*; this degree of management, however, should not result in reassignment of the case to Track IV.

b. *Pretrial Judge Upon Consolidation*

When two or more cases are consolidated, and one or more, but not all, of the cases eventually are disposed, the remaining case(s) will generally stay with the judge who had managed the consolidated case.

c. *Judicial Case Management/Calendaring*

Cases on Tracks I, II and III should be handled by the same pretrial judge from filing at least through discovery, and for cases on Track IV by the same managing judge from filing through trial, barring exceptional circumstances. See *R. 4:5A-1, -2*. A judge other than the designated pretrial or managing judge may nonetheless handle a settlement conference in any case, and block scheduling of settlement conferences (*e.g.*, “settlement days” involving many cases from a designated carrier) may continue. The oversight of the designated pretrial judge in cases on Tracks I, II and III does not necessarily extend beyond the track-allotted discovery period plus 60 days. Thereafter, motions to extend discovery further may be handled by the Civil Presiding Judge or his or her designee. See *R. 4:24-1*. Civil Presiding Judges retain the authority to assign particular cases or classes of cases to particular judges for oversight of all pretrial activity prior to the end of the track-allotted discovery period plus 60 days. For example, a single pretrial judge may be designated to handle all medical malpractice cases filed in the vicinage. An initial case management conference in all Track IV cases is to be conducted within 60 days of joinder (except in prerogative writ cases, which are governed by *R. 4:69-4*).

In cases on any track the number of case management conferences is within the discretion of the pretrial or managing judge. Case management conferences should not ordinarily be held after a case is ready for trial. All decisions and directives issued at a case management conference must be memorialized by court order, pursuant to *R. 1:2-6*.

SECTION 8 : AMENDING PLEADINGS

a. Time for Amendment

A pleading may be amended without obtaining court permission at any time before the opposing party responds to the original pleading. Thereafter, pleadings may be amended with the written consent of the adversary or with the court's permission. Such written consent may include a consent order, a letter from both attorneys, or a letter from one attorney representing that all parties consent and copying all counsel and *pro se* parties. Permission to amend and/or supplement is obtained by filing a motion, which must have attached to it a copy of the proposed amended pleading. All amended or supplemental pleadings require responses from the adversaries in the litigation. See *R.* 4:9.

SECTION 9 : DISCOVERY

a. Time for Discovery

The time for completion of discovery and other pretrial procedures depends upon the track to which the case is assigned. The case type normally determines the track on which the case will be placed. The applicable discovery periods for each track are:

Track I	(150 days' discovery)
Track II	(300 days' discovery)
Track III	(450 days' discovery)
Track IV	(450 days' discovery).

b. Calculation of Discovery Period

Discovery runs from the date the first answer is filed or from 90 days after the first defendant is served, whichever is first. See R. 4:24-1.

c. Discovery End Date Notice

Pursuant to R. 4:36-2, the court must send every party a discovery end date notice 60 days prior to the end of the prescribed discovery period.

d. Types of Discovery

In any civil action, parties may obtain discovery by one or more of the following methods:

- Depositions upon oral examination or written questions (R. 4:14)
- Written interrogatories (R. 4:17)
- Production of documents or things (R. 4:18)
- Permission to enter upon land for inspection (R. 4:18)
- Physical and mental examinations (R. 4:19)
- Requests for admissions (R. 4:22).

Parties may obtain discovery regarding any matter which is relevant to the subject matter involved in the pending action whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party.

e. Track IV Discovery Period

Rule R. 4:24-1(a) states that Track III and Track IV cases are entitled 450 days' discovery, except as otherwise provided by *R. 4:69-4* (prerogative writs).

f. Posting of Discovery End Dates on Web

The discovery end dates for all pending civil cases are posted on the Judiciary's website www.njcourtsonline.com. The information posted on the website is updated nightly.

g. Extension of Time for Discovery

Parties may extend the track-allotted discovery period up to 60 days, by consent. Such extension may be obtained by signed stipulation filed with the court or by application to the Civil Division Manager or team leader, by telephone or by letter copied to all parties, representing that all parties have consented to the extension. Any such consensual extension of discovery must be sought prior to the expiration of the discovery period, and any telephone application for extension must thereafter be confirmed in writing to all parties by the party seeking the extension. See *R. 4:24-1(c)*. If parties do not agree, or if an extension greater than 60 days is sought, a formal motion must be filed with the Civil Presiding Judge or his or her designee. Any such application for discovery may be granted for good cause shown, and the order must describe the discovery to be engaged in and specify the date by which discovery is to be completed. Absent exceptional circumstances, no discovery extension is to be permitted once an arbitration or trial date is set.

h. Initial Consensual Extensions of Discovery

Initial extensions of the discovery period should not usually be applied for early in the discovery process. The contemplation is that such extensions should be applied for during the 60-day period between the court's notice to all parties that the end of the discovery period is approaching and the discovery end date.

This "automatic," consensual extension is intended to be the initial extension of discovery, in the hope that subsequent discovery extension motions might be avoided. Accordingly, the 60-day consensual extension of discovery should precede any formal extension motions.

i. Discovery Relating to Late Served and Newly Added Parties

An originally named party who was not timely served may seek an extension of discovery.

Joinder of a new party extends the discovery period for 60 days, which period may be reduced or enlarged by the court. A party filing a pleading that joins a new party to the action must, within 20 days after service of the new party's pleading, serve a copy of all discovery materials upon, or otherwise make such materials available to, the new party. This language should be included in the order allowing joinder of the new party. See *Rules* 4:8-1 and 4:24-1(a) and (b).

j. New Parties – 60-Day “Automatic” Discovery Extension

When a new party is added, *R.* 4:24-1(b) provides that the discovery period shall be extended by 60 days, which period may be reduced or enlarged in the court's discretion. If, as the extended discovery period draws to a close, the new party, with the consent of all other parties, asks for the “automatic” 60-day extension as provided in *R.* 4:24-1(c) and there has already been such an automatic extension that occurred prior to the new party being added, no additional 60-day consensual extension is permissible. The rules allow for but one “automatic” consensual 60-day extension per case. The party seeking the extension, however, may make a motion and the judge can then determine if an extension is needed.

On occasion, the order granting a new party's entrance into the case may extend discovery for more than the 60 days mentioned in the rule. If there has been no previous request for an “automatic,” consensual 60-day extension, the parties still have the right to such an extension on top of the new-party extension unless the order granting the new party's entrance into the case and extending discovery specifies that this additional discovery is in lieu of any consensual request for the “automatic” 60-day extension that may be made.

k. Protocol for Extensions of Discovery for Late-Added Parties

A protocol and suggested form order for providing discovery extensions when new parties are added have been developed. The judge issuing the order allowing a new party to be added should provide for a discovery extension in that order. The provision should not be phrased in terms of discovery extended by X days, but rather should specifically state the new discovery end date. That date should build in time to serve the new party, time for the new party to answer and then, generally, should provide for 60 days of additional discovery from the time the answer is estimated to be filed. The court may shorten or enlarge the 60-day period, however, as appropriate in the individual case. If any party thereafter needs additional discovery, an application must be made pursuant to *R.* 4:24-1.

If the order permitting a new party to be added does not address the issue of discovery, the attorney should write a letter to the team leader, who will prepare the suggested form order for the judge's signature. If any party is not satisfied with the discovery provisions contained in the form order, that party may make a formal motion. A copy of the protocol and suggested form order are attached in the appendix.

Some vicinages use a stamp on orders extending discovery, adding parties, consolidating cases, amending the complaint and transferring Special Civil Part cases to the Civil Part. The stamp reads as follows:

NEW DISCOVERY END DATE IS: _____
SCHEDULED COURT EVENT IS ADJOURNED _____ YES _____ NO.

l. Discovery End Date Upon Consolidation

When cases are consolidated, the consolidation order should specify the discovery end date that will apply to all cases within the consolidation. If the consolidation order does not specify a discovery end date, the most distant discovery end date among the cases consolidated will generally apply to all cases within the consolidation.

When two cases are consolidated, ACMS is programmed to automatically provide the longest appropriate discovery period to the consolidated cases. For example, if a Track I and a Track II are consolidated, the consolidated case will be provided with the Track II discovery period. If both cases are on Track II, but one was filed later and so has a more distant discovery end date that more distant date will be assigned to the consolidated case. This is a "default" procedure, which can be overridden if the judge assigns a specific discovery end date in the consolidation order.

m. Standard for Motions to Amend or Add Parties After Discovery Ends

When a motion to amend or to add parties is filed after the discovery end date has passed, R. 4:9-1 sets the standard as "by leave of court which shall be freely given in the interest of justice."

n. Motion Needed for Discovery to be Completed Beyond 60-Day Consent Period

Rule 4:24-1 provides that a 60-day extension of discovery is automatic if all parties consent; if additional discovery is needed, a motion must be made. Thus, if an IME (independent medical exam) is scheduled to occur, say, six months in the future, and this date is well past the discovery end date, a motion must nonetheless be filed even if all parties agree to the scheduled IME date. The parties may not merely submit a consent

order setting out with specificity what discovery remains to be done and when each element will be completed; however, if the adversary consents to an extension greater than 60 days, that should be stated in the motion.

o. Discovery Extension Orders to Specify Discovery Remaining to be Completed and Dates

Pursuant to R. 4:24-1, an order to extend discovery, granted as a result of a motion, should specify what discovery remains to be completed and the date by which each item of discovery will be complete.

p. Discovery End Date Upon Stay

Once a stay order is entered into ACMS as to a specific case, the system automatically extends the discovery end date by the number of days of the stay.

q. Motions to Extend Discovery – Effect on All Parties

When a motion to extend discovery is granted, it changes the discovery end date for all parties in the case (unless the order specifies otherwise). One party can join in another's motion to extend discovery, although this is not necessary. If any party needs relief beyond that which is requested in the motion, that party should make its own motion.

r. Discovery Extensions in Judge-Managed Cases

When a discovery extension is needed in a judge-managed case, this need generally can be addressed in a case management conference and order. Alternatively, the managing judge may direct that the party requesting the extension file a motion.

s. Right to 60-Day Discovery End Date Extension When Answer Stricken

A party has the right to the “automatic” 60-day discovery extension when, at the time the request is received, the defendant's answer has been stricken without prejudice for failure to provide discovery, provided all parties consent to the extension and the request is timely made.

t. Discovery End Date Upon Restoration

When there is but a single defendant, a case that is dismissed (*e.g.*, for failure to provide discovery) and later restored, the case will be returned to the calendar with the same discovery end date it had prior to the dismissal (unless the restoration order directs otherwise), even if that discovery end date has passed. The judge may extend the discovery end date in the restoration order, or the parties may seek a discovery end date extension by motion based on exceptional circumstances. In any event, the court should not penalize the non-delinquent party by foreclosing further discovery.

u. Dismissal Time Not Added Upon Reinstatement

When a case is dismissed for failure to provide discovery and is thereafter reinstated, the “time out” period is **not** added back onto the discovery period. The discovery end date remains fixed unless extended by order.

v. Consensual Discovery Beyond Time Provided in the Rules

The parties may conduct additional discovery by consent, even after an arbitration or trial date is set. Such consensual discovery, however, must not delay any proceeding date fixed by the court, nor will it be enforced by the court.

w. Depositions

Any party may take the testimony of any person, including a party, by deposition upon oral examination. In a deposition, the attorneys question a witness under oath to learn what the witness knows and to have the opportunity to assess that witness’s demeanor and credibility before trial. Deposition testimony is recorded by a court reporter or videotaped. Instead of oral questions, parties may serve written questions in a sealed envelope on the party. The main purposes of depositions are to impeach or contradict testimony of that person as a witness and to give counsel an opportunity to assess a witness’ demeanor and credibility prior to trial. During depositions, any party may make a formal motion by telephone to the court to limit the scope and/or manner of the taking of the deposition. Videotaped depositions of treating physicians or expert witnesses may be used for discovery purposes and in lieu of trial testimony. See *R. 4:14-9*.

x. Objections to Videotaped Testimony

Rule 4:14-9(f) requires that objections to the videotaped testimony of a treating physician and/or expert be presented to the court within 45 days following completion of the deposition, and the comments indicate that the failure to seek such a pretrial ruling will be deemed a waiver of any objection. The rationale behind the rule is that these

objections should be dealt with pretrial so as not to delay the trial, which would be the result if the objections were presented after the trial started.

This approach, that is, of handling objections to the videotaped testimony does not apply to the videotaped testimony of experts taken pursuant to *R. 4:36-3*.

y. *Written Interrogatories*

Interrogatories are a form of discovery in which the parties to a case are required to answer, under oath, a series of written questions relevant to the case. See *R. 4:17*. Some important points relative to interrogatories are:

- In all negligence actions seeking recovery for property damage to autos or personal injury actions, there are certain uniform interrogatories which must be used. These appear as Appendix II to the Rules of Court. Uniform interrogatories are not used in professional malpractice, toxic tort and wrongful death cases.
- A defendant served with a complaint in a case type for which uniform interrogatories have been adopted, is deemed to have been simultaneously served with such interrogatories, and must serve answers to the appropriate uniform interrogatories within 60 days after service of the answer to the complaint. See *Rules 4:17-1, -2, -4*.
- The plaintiff is deemed to have been served with uniform interrogatories simultaneously with service of defendant's answer to the complaint, and must serve answers to the interrogatories within 30 days.
- Motions can be made to strike certain questions or to compel more specific answers.
- If new information is found which renders any answers to interrogatories inaccurate, amended answers must be served.
- Interrogatories may be used at the time of trial to contradict or impeach testimony -- as is the case with depositions.
- Interrogatories are not separately filed with the court, but may be filed as part of a discovery motion.

z. Amending Answers to Interrogatories

Rule 4:17-7 requires that amended answers to interrogatories be served no later than 20 days prior to the end of the discovery period. Thereafter, amendments may be allowed only if the party seeking the amendments certifies that the facts on which the amendment is based could not have been reasonably discoverable prior to the end of the discovery period. If a post-discovery end date amendment is made, the adversary may then make a motion, alleging exceptional circumstances, for additional discovery.

aa. Production of Documents and Things and Entry Upon Land for Inspection

Any party may apply to the court to require another party produce documents or permit inspections of items or entry upon land to inspect, survey or photograph. See *R. 4:18*.

bb. Physical and Mental Examinations

In any action for personal injuries or in which the mental or physical condition of a party is in controversy, the adverse party may require the party whose physical or mental condition is in controversy to submit to an exam by serving notice upon that party, stating with specificity when, where and by whom the exam will be conducted, as well as the nature of the exam and any proposed tests. At least 45 days' notice of the exam must be provided. See *R. 4:19*.

cc. Requests for Admissions

A party may serve upon any party a written request for the admission of the truth of any matter including the genuineness of documents. The matter is admitted unless an answer or objection is given in writing. Any admission not objected to is considered conclusively established for the pending trial and no other action. See *R. 4:22*.

dd. Non-Compliance with Discovery Request

If a party does not timely comply with discovery requests made pursuant to *Rules 4:17* (interrogatories) and *4:18-1* (production of documents, etc.) or *4:19* (mental or physical exams), the other party may move for an order compelling the discovery or for an order dismissing or suppressing the pleading of the delinquent party, without prejudice.

To vacate an order of dismissal without prejudice, the delinquent party may make a motion, accompanied by a reinstatement fee made payable to “Treasurer, State of New Jersey” (\$100 if the motion is made within 30 days of the dismissal order, \$300 thereafter) and an affidavit stating that the discovery has been provided.

After 90 days from the date of the order of dismissal without prejudice, if that order has not been vacated, the party entitled to the discovery may move for an order of dismissal with prejudice.

If a person being deposed refuses to answer a deposition question, the party taking the deposition may bring a motion to compel an answer. If the individual fails to answer after being directed to do so, the failure is considered a contempt of court.

ee. Late Motions to Compel Discovery

Rule 4:24-2 provides that, absent good cause, motions to compel discovery and to impose or enforce sanctions for failure to provide discovery must be made returnable prior to the expiration of the discovery period.

ff. Carrying Motions to Strike or Dismiss Upon Agreement to Provide Discovery

With the consent of the court, the parties may agree to carry motions to dismiss without prejudice for failure to provide discovery if the delinquent party agrees to provide the discovery by a date certain

gg. Party Seeking Relief Under R. 4:23-5 Must not be Delinquent in Providing Discovery

Rule 4:23-5(a) requires that a party moving to strike or dismiss the adversary’s pleading must certify that he or she is not in default on any discovery obligations owed to the delinquent party. In discussing whether a motion to dismiss for failure to attend an IME might be denied if the movant has not yet answered the delinquent party’s interrogatories, even if the time for answering has not yet run, the Conference of Civil Presiding Judges took the position that, as long as one party is not delinquent in providing discovery, *i.e.*, the time period within which the discovery must be provided has not yet run, that party should generally be able to obtain relief under *R. 4:23-5*.

hh. Dismissal of Complaint for Discovery Default – Effect on Other Parties

If a defendant obtains an order of dismissal against plaintiff due to plaintiff's discovery default, the case is dismissed as to the moving defendant **only** and continues as to the other defendants. If the order submitted is not specific, the judge should pen in that the case is dismissed "as to the moving party."

SECTION 10 : COUNSEL

a. Trial Counsel Designation

Pursuant to R. 4:25-1(b)(14), in the event that a particular member or associate of a firm is to try the case, or if specified counsel is to try the case, the name should be included in the initial pleadings, and must be specifically set forth in the pretrial order. No change in designated trial counsel may be made without the permission of the court, if the change will interfere with the trial schedule. Changes may be requested by letter. If the name of a specific trial counsel is not specifically provided, the court and opposing counsel shall have the right to expect any partner or associate of the firm to try the case when reached by the court.

b. Trial Counsel Designation – No Per Diem Attorneys Permitted

A *per diem* attorney, *i.e.*, an attorney not associated with a particular law firm but who is retained by the firm to handle a particular task only on a particular day and paid for the daily task performed, who will try the case may not be designated as trial counsel.

c. No Designation of Trial Co-Counsel Permitted

R. 4:25-4 allows only one designated attorney per interested party.

d. Waivers of Designated Trial Counsel

Counsel must, either in the first pleading or in a writing filed no later than ten days after the discovery end date, notify the court of the name of counsel designated to try the case or the right to designate counsel is deemed waived. The court may disregard trial counsel designation in any tort case over three years old, if the unavailability of designated counsel will delay trial. If the name of the trial counsel is not specifically set forth, the court and opposing counsel shall have the right to expect any partner or associate to try the case. See R. 4:25-4 and R. 4:36-2.

e. Pro Hac Vice Admission

A packet has been developed for *pro hac vice* admission in accordance with R. 1:21-2. Such an application must be done on motion. The packet appears on the Judiciary's Internet website at www.njcourtsonline.com

f. New Jersey Counsel with Bona Fide Offices Elsewhere

In accordance with Rules 1:20-1(b), 1:28-2 and 1:28B-1(e), all counsel practicing in New Jersey are required to pay an annual fee to the New Jersey Lawyer's Fund for Client Protection and file annual registration statements. Moreover, pursuant to R. 1:21-1 (a), a power of attorney must be filed designating the Clerk of the Supreme Court as

agent upon whom service of process may be made for all actions, including disciplinary actions. See *Rules* 1:20-1(b), 1:28-2, 1:28B-1(e) and 1:21-1(a).

SECTION 11 : MOTION PRACTICE

a. Motion Filing Procedures

A notice of motion should include:

- the time and place the motion is to be heard;
- the grounds upon which it is made;
- nature of relief sought;
- the discovery end date or a statement that no such date has been assigned;
- the trial or arbitration date if one is scheduled;
- whether the motion is opposed or unopposed; and
- an indication whether oral argument is sought.

Motions seeking a ruling on the papers (that is, without an appearance in court) under *Rules* 1:6-2 and 1:6-3 are considered uncontested unless responsive papers in opposition are filed not later than 8 days before the return date of the motion. In addition, the notice of motion should be accompanied by the following:

- certification signed by moving party;
- if the motion is for an extension of discovery, it must attach copies of all prior discovery extension orders or a certification that none exist, pursuant to R. 1:6-2(c);
- a proposed form of order;
- the required filing fee in a check, or money order made payable to Superior Court of New Jersey. Attorneys with charge accounts with the State can include their charge account numbers; and
- certification or proof of mailing.

If the filing party wants a “filed” copy of the motion, an extra copy of the motion and a self-addressed, stamped envelope must also be provided to the court.

For most new motions, the motion papers must be filed and served 16 days before the requested hearing date (“return date”). However, for summary judgment motions, moving papers must be filed and served 28 days before the return date and not later than

30 days before a scheduled trial date, unless the court otherwise orders on good cause shown. *R. 4:46-1*.

b. Motions to Change Venue

Rule 4:3-3(b) provides that motions to change venue cannot be brought with motions seeking any other relief.

c. Cross-motions

A cross-motion may be filed and served by the responding party together with that party's opposition to the motion and noticed for the same return date only if it relates to the subject matter of the original motion. A cross-motion relating to the subject matter of the original motion shall, if timely filed, relate back to the date of the filing of the original motion. See *R. 1:6-3(b)*.

d. Withdrawn Motions

Rule 1:6-2 specifically requires counsel to advise the court immediately if a motion is withdrawn or a case is settled. Motions that are not withdrawn timely may have to be marked "denied" because they are moot.

e. Proof of Service of Motions

The proof of service of a motion must include the names and addresses of all attorneys and the parties they represent and of all *pro se* parties. See *R. 1:5-3*.

f. Assignment of Motions

The same pretrial judge handles all motions in a Track I, II, or III case, through the track-allotted discovery period plus 60 days (see *R. 4:24-1*). Thereafter, motions may be heard by the Civil Presiding Judge or his or her designee. Illness, vacation or transfer out of the Civil Division will necessitate an exception to the above rule. Motions to amend pleadings and add parties, as well as *pro hac vice* motions and motions to consolidate, are handled by the designated pretrial judge through the track-allotted discovery period plus 60 days (see *R. 4:24-1*). Thereafter, such motions may be heard by the Civil Presiding Judge or his or her designee. See *R. 1:6-2*.

g. Scheduling Motions/Oral Argument

Motions must always be assigned a return date; if no return date is indicated in the notice of motion, then the motion will be assigned to be heard on the next available motion date. Motions will not be adjourned without being assigned another hearing date. Oral argument should be confirmed by the court two days prior to the return date. Confirmation is made to the moving party, whose obligation it is to advise all other parties. Note that motion calendars and oral argument status are now posted on the Judiciary's Internet website at www.njcourtsonline. This information is updated nightly so that attorneys and parties can search their particular case to determine when the motion will be heard and whether oral argument has been granted. The practice of posting tentative motion decisions in advance of the return date may be continued or implemented as a local prerogative. The court makes every effort to accommodate attorneys' requests to schedule oral argument on motions at a particular time. The use of the telephone to hear oral argument is encouraged, and attorneys' requests for telephone argument are accommodated where possible.

h. Joining in Motions

Any party wishing affirmative relief specific to that particular party must file a motion, with the required fee. In such instances, a "join in" letter is insufficient. For example, if one defendant makes a verbal threshold motion, another defendant cannot simply write to the court indicating he or she "joins in" the motion and expect to have an order entered letting the second defendant out of the case if the motion is granted. The second defendant would have to file his or her own motion for summary judgment, and pay the requisite filing fee. One party, however, may join in another's motion when that motion affects the case as a whole, *e.g.*, a motion to extend discovery, consolidate or change venue.

i. Motions to Adjourn Arbitration

Short-notice motions to adjourn a scheduled arbitration hearing in order to permit additional discovery will generally not be considered. A motion received after the normal filing deadline for the return date specified will be calendared for the next return date. Motions to adjourn must demonstrate exceptional circumstances (*R.* 4:24-1) and should be made pursuant to the timetable set forth in *R.* 1:6-3.

j. Motion to Extend Time to Answer Not Required – Stipulation or Consent Order Sufficient

Pursuant to R. 4:6-1(c), a motion to extend time to answer should not be required, that is, a filed consent order or written stipulation is sufficient, unless other relief, such as vacating default or extending discovery, is also sought.

k. Processing of In Limine Motions

A motion *in limine*, *i.e.*, a motion that is to be heard at the start of a trial, does not require a fee and no return date need be assigned. The motion papers will simply be placed into the file jacket for the trial judge's review and handling and the motion will become part of the trial record.

If, however, a motion is submitted with a return date in advance of the trial date, it will be handled as any other motion, and should be accompanied by a motion fee.

l. Reserved Decisions

An attorney or *pro se* party may apply to the Civil Presiding Judge to have a reserved motion decided timely. It is the responsibility of the Civil Presiding Judge to be knowledgeable as to which decisions are reserved and to address delays as needed.

m. Motions to Extend Time for Discovery

Any motion to extend the time for discovery must have annexed thereto either a copy of all prior orders extending the discovery period or a certification that there have been no prior orders. See R. 1:6-2(c).

n. Decisions on Orally Argued Motions

If an orally argued motion is not decided on the return date and the court intends to place its findings on the record at a later date, at least one day's notice (which may be by telephone) of that later date will be provided to counsel and *pro se* parties. See R. 1:6-2(f).

o. Motions Required to be Made During Discovery Period

Rule 4:24-2 provides that no motion for the relief provided by the following rules may be granted in any action unless it is returnable before the expiration of the time limited for discovery unless on notice and motion, for good cause shown, the court otherwise permits: *R. 4:8* (motion for leave to file a third-party complaint); *R. 4:7-6, 4:28-1, or 4:30* (motion for joinder of additional parties); *R. 4:38-1* (motion for consolidation); and *R. 4:38-2* (motion for separate trials), as well as motions to compel discovery and motions to impose or enforce sanctions for failure to provide discovery.

p. Motions Filed After Discovery End Date

The question arose as to what standard applies to a motion to amend or to add parties, filed after the discovery end date has passed. *Rule 4:9-1* sets the standard as “by leave of court which shall be freely given in the interest of justice.”

q. Motions to Deposit or Withdraw Funds

Attached in the appendix are detailed instructions outlining the procedure for the deposit of funds into Superior Court and also for withdrawal of funds previously deposited. In accordance with the attached instructions, **prior** to the filing of such motions, copies of the proposed motion papers must be reviewed by the Trust Fund Unit of the Office of the Clerk of the Superior Court. The address of the office appears in the instructions.

r. Motions on Short Notice

Although the term “motion on short notice” is sometimes used by attorneys filing motions after the appropriate deadline, description of a motion as one on short notice places the court under no obligation to calendar the motion based on the designated date in the filer’s notice of motion. A motion received after the normal filing deadline for the return date specified will be calendared for the next return date.

SECTION 12 : DEFAULT/DEFAULT JUDGMENT

a. Entry of Default and Default Judgment

If a party has failed to plead or otherwise defend or if the answer has been stricken, according to *R. 4:43-1* the clerk shall enter a default on the docket as to such party.

The following must be filed before default can be entered:

- **Request for Default** (a document, formally requesting of the clerk to enter a default against a specific party identified).
- **Affidavit/Proof of Service** (identifying the type of service of process, the date of service, the time within which the defendant(s) had to respond, the fact that the time has expired and has not been extended).

The request for default and affidavit for entry of default must be filed within 6 months of the actual default date. Thereafter, default cannot be entered except on notice of motion to the court. However, if the request is submitted beyond the 6-month period, it will be filed as “non-conforming.” If the defendant was originally served with process either personally or by certified/ordinary mail, the party/attorney obtaining the entry of default must send a copy of the request for default to the defaulting party by ordinary mail addressed to the same address at which the defendant was served with process.

A **default judgment** can be obtained against a party who has failed to respond, *i.e.*, “plead”, or whose pleading has been stricken by the court and against whom default has been entered. Application may be made after entry of default judgment to vacate or void the judgment.

According to *R. 4:43-2*, default judgment can be entered in the following ways:

- by the clerk, if the plaintiff’s claim is for a sum certain or for a sum which can by computation be made certain, and
- in such cases, a valid affidavit of proof must be filed; and
- in all other cases, by the court, on notice of motion, after a proof hearing is held.

In addition, pursuant to the *Servicemembers’ Civil Relief Act (SCRA)* 50 U.S.C. § 521, its New Jersey counterpart, *N.J.S.A. 38:23C-4*, and *R. 1:5-7*, an affidavit of non-military service must be filed with any application for default judgment.

It should be noted that the entry of default and default judgment cannot be done simultaneously in the Civil Part. Default must be entered and the defaulted party provided with notice of the entry before a default judgment may be sought and entered. See R. 4:43-2.

Rule 4:43-2(b) was recently amended to require that applications for entry of default judgment be brought by notice of motion. Attorneys must make a motion with the relief sought being an order scheduling the proof hearing on a selected date. On the return date of the motion, if no opposition is filed, the motion presumably would be granted on the papers, an order signed and served at the same address as the motion, and the proof hearing would take place on the date specified in the order (not a motion day, but a date convenient to the court and the moving party). If opposition is filed, the court will address it on the return date and, if the opposition is unfounded, will schedule the proof hearing date, advise the parties of the date on the record, and also put the date in the order.

b. Entry of Default Upon Striking of Answer

The court will not automatically enter default against a party whose answer is stricken for failure to answer interrogatories. Further, an answer must be stricken with prejudice before default judgment can be entered.

c. Answers Submitted After Default Entered

If default has been entered and an answer is thereafter submitted, the answer will be returned, “received, but not filed.” See R. 1:5-6(c)(2).

d. Affidavits of Non-Military Service

Pursuant to Rule 1:5-7 and in accordance with the *Servicemembers’ Civil Relief Act*, 50 U.S.C. §521, unless based on facts admissible in evidence, an affidavit of non-military service must have attached to it a statement from the Department of Defense (DOD) or from each branch of the armed services that the defendant is not in military service. The DOD Manpower Data Center maintains a public website at <https://www.dmdc.osd.mil/scra/owa/home> that allows individuals to search for information regarding military status. Users must know the social security number and the last name of the person whose military status is to be verified. Once the information has been entered, a report will be generated electronically in a form with the seal of the DOD and the signature of the Center’s Director.

Certificates from the individual branches of the armed services may be obtained from the addresses listed below. Requests for certificates should contain the defendant's full name, social security number, and date of birth. If the social security number is not known, this fact should be noted. A statement of why the information is needed and a self-addressed, stamped envelope must also be included. Unless otherwise noted below, a postal money order or a certified, cashier's or personal check made payable to the "Department of Treasury" in the amount of \$5.20 for each defendant must accompany each request.

U.S. NAVY

Department of the Navy
Bureau of Naval Personnel
Navy Personnel Command
5720 Integrity Drive, PERS 312
Millington, TN 38055-3120
Make check payable to: U.S. Treasurer

U.S. AIR FORCE

Air Force Worldwide Locator
HQ AFPC/DPDXIDL
550 C Street, West, Suite 50
Randolph AFB, TX 78150-4752
Make check payable to: DAQ-DE

U.S. MARINE CORPS

Commandant of the Marine Corps (MMSBO)
Headquarters U.S Marine Corps
Personnel Management
Support BRMMSB 10, Suite 201
2008 Elliott Road Suite 203
Quantico, VA 22134-5030
Please mark "OFFICIAL BUSINESS" on bottom of envelope. Make check payable to: U.S. Treasurer

U.S. ARMY

Commander
U.S. Army Enlisted Records and Evaluation Center
Attn: AHRC-ERP
8899 East 56th Street
Indianapolis, IN 46249-5031
Make checks payable to: Finance Officer

U.S. COAST GUARD
USCG – Personnel Command
Military Records Branch (ADM-3)
4200 Wilson Blvd.
Arlington, VA 22203-1804
Attn: Terri Mathews, Coast Guard Locator Assistant
Make checks payable to: U.S. Coast Guard

If personal information or information from the DOD Manpower Data Center or the individual branches of the armed services is not available or does not identify the defendants non-military status with certainty, the court may require a bond to be posted before issuing default judgment.

e. Time for Entry of Default Judgment

If a party entitled to a default judgment fails to apply within 6 months after the entry of the default, judgment may not be entered except on motion. See *R. 4:43-2(a)*.

f. Calculation of Interest on Judgments

It is the attorneys' responsibility to calculate interest on default judgments. Staff may review the interest calculation and if there appears to be an obvious problem, may either bring it to the attention of the judge or contact the attorneys and ask them to resubmit the order with a corrected interest calculation.

g. Defaults in Matters Involving Attorney Fee Arbitration

If a civil case was filed involving an attorney's fee (*e.g.*, for collection of an unpaid fee) and the matter was referred to fee arbitration, default in the matter can be entered on application pursuant to *R. 1:20A-3(e)*. This rule provides that if an action for collection of the fee was pending in Superior Court when the client's written request for fee arbitration was filed, the amount of the fee or refund as so determined may be entered as a judgment in the action unless the full balance is paid within 30 days of receipt of the arbitration determination. If no such action was filed previously in Superior Court, the attorney or client must proceed by summary action pursuant to *R. 4:67*.

SECTION 13 : DISMISSAL

a. *Dismissal for Lack of Prosecution*

The dismissal process pursuant to *R. 1:13-7* works as follows:

- After four months of inactivity as defined in *R. 1:13-7*, the court will issue a notice to counsel advising that a particular party will be dismissed without prejudice in 60 days, unless one of the following occurs within that period:
 - an answer, or non-conforming answer is filed or default is requested if the required action not timely taken was failure to answer or enter default;
 - proof of service or acknowledgement of service of the party is filed with the court if the required action not timely taken was failure to file proof of service or acknowledgement of service with the court;
 - a default judgment is obtained if the required action not timely taken was failure to convert a default request into a default judgment; or
 - a motion is filed by or with respect to a defendant noticed for dismissal. If the motion is denied, the defendant will be dismissed without further notice. See *R. 1:13-7(a)*.
- If the required action does not occur within the 60-day period following the notice, the case will be dismissed without prejudice and the order of dismissal will be sent to the parties; thereafter, reinstatement of the action or party after dismissal may be permitted upon submission of a consent order that vacates the dismissal and allows the defendant to file an answer, provided the proposed consent order is accompanied by the answer for filing, a CIS and the required fee. The entry of the consent order may be permitted at the discretion of the court. Otherwise, reinstatement may only be permitted on motion for good cause shown. The court may, with respect to a particular defendant, also impose reasonable, additional or different procedures to facilitate the timely occurrence of the next required proceeding to be taken in the case with respect to the defendant. See *R. 1:13-7(a)* and (b).

b. *Exemptions from the Automated Dismissal Process*

The following case types are exempt from the automated dismissal process:

- ***Name Changes*** – these cases are excluded from the automated dismissal process, as name change complaints require no answer.

- ***Forfeitures*** – forfeiture matters that have been stayed at the request of the Attorney General or inactivated because the defendant in the underlying criminal case is a fugitive are not subject to the automated dismissal process; those forfeitures that have not been stayed or inactivated, however, are subject to the automated dismissal process.
- ***Condemnations/Inverse Condemnations*** – these cases are individually managed and, while the managing judge based on his or her determination in a particular case may dismiss them, they are not to be subject to the automated dismissal process.
- ***Actions in Lieu of Prerogative Writs*** – same as condemnations, above.
- ***Summary Actions, including OPRA Cases*** – these cases are not subject to the automated dismissal process as no answer is required.
- ***Mass Tort Cases*** – these cases are specially handled.

c. Fictitious Parties – No Automated Dismissal

Notices of dismissal are not issued as to fictitious defendants *unless* the fictitious defendants are the only defendants in the case.

d. Service Effected Following Dismissal – Reinstatement

Service of the dismissed complaint, as a prerequisite to vacating the dismissal and restoring the pleading, is permissible. This position is supported by *Stanley v. Great Gorge Country Club*, 353 N.J. Super. 475 (Law Div. 2002).

e. Consent Orders Vacating Dismissal – Proof of Curing Deficiency Needed

When the discovery end date has not passed and the case has not been scheduled for arbitration or trial, vacation of dismissal and restoration of the complaint may generally be accomplished by consent order, provided the document curing the reason for the dismissal, *e.g.*, the proof of service of an answer, is attached to the consent order. See

f. Noticing Dismissed and Defaulted Parties

Notice of arbitration and trial are sent to parties who have filed pleadings in the case and subsequently have been dismissed without prejudice, as well as to parties in default after having previously answered or otherwise appeared, or who have had their answers stricken for failure to provide discovery.

g. Voluntary Dismissal Without Prejudice By Consent Order

The court does not dismiss cases without prejudice (or suggest that the attorneys take a voluntary dismissal without prejudice) to avoid aging. Specifically, the court does not sign consent orders dismissing a case without prejudice, which orders contemplate subsequent restoration or refiling and provide for a waiver of the statute of limitations. Nor does the court in any way suggest that the attorneys take a voluntary dismissal in order to gain time to complete discovery or prepare for trial. See *Shulas v. Estabrook*, 385 N.J. Super. 91 (App. Div. 2006). Further, the court does not sign consent or voluntary dismissal orders that dismiss a case without prejudice so that the case may go to arbitration, mediation or any other CDR or ADR mechanism (whether court-annexed or private) and then be restored under the same docket number if arbitration or mediation does not resolve the matter.

h. Bankruptcy Dismissals

When the sole defendant is in bankruptcy, the case will be dismissed without prejudice, subject to restoration. When one of multiple defendants files for bankruptcy, the case will be dismissed against that defendant *and* against any other defendants who may be covered by the bankruptcy order. If the case can be efficaciously prosecuted against the remaining, non-bankrupt defendants, it may proceed. As an alternative, a case may be dismissed without prejudice against all defendants, subject to being reinstated upon plaintiff's application to proceed against all defendants or any particular defendant. **[N.B.]** If a plaintiff files the bankruptcy petition, depending upon the circumstances, the case may or may not be dismissed or stayed.

SECTION 14 : STAYS AND INACTIVATIONS

a. *Inactivation of Cases*

The only cases that may be inactivated by the court are cases placed on the military list pursuant to *R. 1:13-6*, forfeitures in which the defendant in the underlying criminal case is a fugitive and cases in which there is a stay imposed because of the insolvency or rehabilitation of an insurance company. Cases placed on the inactive list will continue to be monitored by the court.

b. *Stays*

Cases may be stayed by court order in certain circumstances. Examples include:

- cases in which an appeal is pending; or
- federal preemption of a cause of action brought in state court.

Rule 1:40-6(c) allows the court to stay discovery when a case is referred to mediation, but the parties may not stay discovery by consent.

c. *Effect of a Stay*

During a stay, discovery should cease and the case should not be scheduled for any court proceedings; however, pleadings may be filed and docketed. The order granting a stay should specify the date the stay will expire (pending further order of the court), to ensure that the matter comes up for the court's review.

d. *Insurance Company Rehabilitations and Insolvencies*

Guidelines have been developed to prescribe the procedure to be used whenever an insurance company has been declared insolvent or has been placed into liquidation and a statewide stay is sought of all New Jersey litigation. A copy of the procedure appears in the appendix. Whenever a carrier is declared insolvent, the New Jersey Property Liability Insurance Guaranty Association (NJPLIGA) is responsible for the defense of certain suits and payment of certain claims up to \$300,000 per claim, after the claimant has exhausted all other insurance coverage. See *N.J.S.A. 17:22.6-74, -77 and -79*. NJPLIGA is entitled, as a matter of right, to an initial stay of litigation of 120 days from the date of any order of insolvency. See *N.J.S.A. 17:30A-18*.

Whenever an insurance carrier has been placed into rehabilitation by a court in a foreign jurisdiction and the order contains language staying all cases in which the carrier is involved, the New Jersey courts must honor such stays. See *Aly v. E.S. Sutton Realty*, 360 N.J. Super. 214 (App Div. 2003).

All cases subject to a stay because of either a rehabilitation or insolvency of an insurance carrier may be placed on the inactive list during the period of the stay and any extensions thereof.

e. Bankruptcies

Whenever the court is notified that a party to civil litigation has filed bankruptcy, the court will require copies of the following documents:

- filed petition in bankruptcy including filing date and case number; and
- schedule of creditors showing that the debt forming the subject matter of the civil action is listed.

The filing of a bankruptcy petition immediately stays all state court proceedings by operation of federal law.

f. Claim of Privilege

When a defendant in a civil case asserts a claim of privilege because of a pending and related criminal matter, the court may stay the civil case pending the outcome of the criminal matter. Depending upon the particular matter, the court may also schedule the civil case and permit the defendant to be deposed or appear and assert the privilege.

SECTION 15 : ADJOURNMENT

a. *Statewide Adjournment Policy*

The following statewide adjournment policy is in effect:

- All requests to adjourn a civil trial or an arbitration are governed by *Rule 4:36-3(b)*.
- A good faith effort shall be made to discuss any request for an adjournment with all other parties before the request is presented to the court.
- All adjournment requests must be made in writing, submitted to the Civil Division Manager. Faxed requests are permitted. Telephone requests will not be accepted absent exceptional circumstances. Requests must be copied to all other parties.
- Any request for an adjournment must be presented as soon as the need for an adjournment is known. Absent exceptional circumstances, the request must be presented no later than the close of business on the Wednesday preceeding the Monday of the week the matter is scheduled for trial or arbitration.
- The written request must indicate the reason or reasons the adjournment has been requested, and whether the other parties have consented to the proposed adjournment. The written request should also include a new proposed date for trial or arbitration, consented to by all parties. If consent cannot be obtained, the court will determine the matter by conference call with all parties.
 - If the adjournment request is based upon a conflict with another court proceeding, the party requesting the adjournment must indicate whether he or she is designated trial counsel and supply the name of the other matter, the court and county in which it is pending, and the docket number assigned to the matter.
- No adjournments will be granted to accommodate dispositive motions returnable on or after the scheduled trial date.
- A matter should not be considered adjourned until court staff has confirmed that the request for an adjournment has been granted. Timely response will be given to the party requesting the adjournment, who will then be responsible for communicating the decision to all other parties.
- To the extent any party is dissatisfied with the decision made by the Civil Case Management Office, the following procedure should be followed:

- in master calendar counties, the aggrieved party should present the matter to the Civil Division Manager directly; to the extent that any party is dissatisfied with the decision made by the Civil Division Manager, that party may ask that the matter be presented to the Civil Presiding Judge;
- in individual/team calendar counties, the aggrieved party should present the matter to the Civil Division Manager directly; to the extent that any party is dissatisfied with the decision made by the Civil Division Manager, that party may ask that the matter be presented to the pretrial or managing judge.
- Requests for adjournment of a civil trial based on expert unavailability are governed by *R. 4:36-3(c)*. See AOC Directive #6-04, a copy of which appears in the appendix.

b. Insufficient Reasons for Adjournment

Adjournment requests should generally be made only if an attorney, party or witness is unavailable. No adjournment request for incomplete discovery should be made or granted, barring exceptional circumstances. No adjournment request will be granted to accommodate a dispositive motion returnable on or after the trial date.

c. Failure to Provide Proposed Agreed Upon New Date

Rule 4:36-3(b) requires the attorney requesting an adjournment of a trial to provide the court with a proposed new trial date, agreed upon by all parties. If the proposed new date is not provided, the adjournment request may be denied.

d. Exceptional Circumstances Warranting Trial Adjournment for an Expert's Unavailability

A determination of “exceptional circumstances” justifying a trial adjournment due to the unavailability of an expert must be a judicial determination made within the context of a specific case.

e. Late Adjournment Requests - - Personal Appearance

Personal appearances will not be routinely required to make a timely (*i.e.*, before Thursday preceding the trial week) or emergency (*e.g.*, because of illness) adjournment request.

A vicinage, however, may routinely impose a personal appearance requirement on attorneys making untimely adjournment requests for non-emergent reasons. A judge will handle these requests, as an “exceptional circumstances” determination must be made.

SECTION 16 : TRIALS AND SCHEDULING OF EVENTS

a. *Notice of Trial*

At least 10 weeks' notice of trial must be provided by the court. The ten-week period is counted from the date of the receipt of the trial notice. The notice may not be sent prior to the discovery end date. See *R. 4:36-3*.

b. *Adjustment of Trial Date*

Attorneys should notify the court timely, ideally no later than 30 days following the date of the trial notice of the need to adjust the first, court-generated trial date to accommodate an expert's scheduling conflict. The court's "adjustment" of the trial date upon such notice does not constitute an adjournment within the contemplation of *R. 4:36-3(c)*.

c. *Appearance of Attorneys at Trial Calls*

On the day of the call, attorneys should be released by early afternoon unless their cases are sent out, or can reasonably be expected to be sent out, for settlement discussion or trial that day. Attorneys should not be expected to appear at trial calls subsequent to the initial call for their case in the trial week unless the case can reasonably be expected to be sent out for settlement discussion or trial on that subsequent date.

d. *"Subject To" / "Ready Hold" Markings*

Unless an attorney is actually on his or her feet before another judge, that attorney may be expected to appear for trial before any other judge, absent exceptional circumstances. As a general rule, if two ready cases handled by the same attorney will be reached for trial on the same day, the older case takes precedence. In some instances, however, as when the younger case involves witnesses who have traveled a considerable distance to testify, the younger case will take precedence. Such conflicts should be worked out reasonably by the Civil Presiding Judges involved or their designees. It is essential, therefore, that attorneys advise the Presiding Judge as soon as they know that a conflict is likely.

e. *"On Call"*

No vicinage should have a blanket "on call" period, such as a "one-hour" call or a "half day call" for all cases being held. The length of an "on call" period should be worked out between the attorneys and court staff before the attorneys leave the

courthouse. It should be determined on a case by case basis depending on the needs of the particular case and the status of the calendar during the particular week.

f. Relisted Cases

If a case is not reached during the week in which the initial trial date falls, it should be relisted for a trial date certain after consultation with counsel. No case should be relisted sooner than four weeks from the initial trial date without agreement of counsel. Counsel are to receive written notice of new trial dates for relisted cases. This is intended to put a stop to telephone notice of rescheduled trial dates, which made the entire trial process unpredictable for attorneys, litigants and witnesses. Telephone notice is impermissible. See R. 4:36-3.

g. Trial Calendaring Prior to End of Trial De Novo Filing Period

Trial notices for a case subject to arbitration should not go out until after a trial *de novo* request is made.

h. Assignment for Trial

Advising an attorney that he or she is “assigned” for trial on some day in the near future will not serve to hold that attorney’s time on that day. All “assigned” means is that the court anticipates that the attorney will start trial on a particular day.

i. Continuous Trials

Insofar as is practicable, all trials should be continuous and uninterrupted, and should run for the full day as prescribed by R. 1:30-3.

j. Excusal of State Bar Association Officers and Members from Trial Dates

Trial judges should honor the request of any officer or trustee of the New Jersey State Bar Association to be excused from trial commitments on the day of a scheduled trustees' and officers' meeting, unless there is a compelling reason for the trial to go forward. There are approximately 40 trustees and officers; they meet generally ten times a year. Reasonable notice of such meetings should be given to the Assignment Judge by any trustee or officer who requires an excuse from trial commitments. Assuming such notice is given, denial of a request should be limited to extraordinary circumstances, such as the previous scheduling of a matter involving many attorneys where it is clear that

rescheduling would be inordinately difficult. The same policy applies to members of the Judicial and Prosecutorial Appointments Committee (which meets eight or nine times a year), and to those members of the General Council who plan to attend the annual and semi-annual New Jersey State Bar Association General Council meetings, again subject to reasonable prior notice to the court.

Finally, any member of the New Jersey State Bar Association who plans to attend the Association's midyear Annual Meeting should be subject to the same excusal policy. Thus, any member of the State Bar who attends an annual meeting should be excused upon request (with reasonable notice) from trial commitments on conflicting annual meeting days (plus travel time), unless there is a compelling reason for a particular trial to proceed. See AOC Directive #9-97, a copy of which appears in the appendix.

k. Procedures for Resolving Attorneys' Civil Trial Scheduling Conflicts

The Supreme Court has authorized the following procedures for resolving attorneys' civil trial scheduling conflicts:

1. As a general principle, in the event of a conflict involving cases scheduled for trial at the same time in different counties, the older or oldest case will have priority over cases commenced at a later time. Exigent circumstances may, however, suggest a different priority, as, for example, when a party is terminally ill or a complex matter involving multiple attorneys has been scheduled peremptorily (see paragraph 4, below). In such instances, the vicinage with the younger case must follow the procedure set forth in paragraph 3, below.
2. Immediately upon recognizing that a conflict may exist between cases scheduled for trial at the same time in more than one county, an attorney shall notify the Civil Division Manager of each county in which a conflicting case is scheduled, as well as all counsel in all affected cases, in order that the Civil Division Manager with the newer case may know that the case is subject to the trial of an older case in another county.
3. In the event that an attorney or a Civil Division Manager is of the opinion that valid reasons exist for extending priority to the newer case, the conflict will be promptly resolved by a conference of the Civil Division Managers of the counties where the cases are pending. In the event that the Civil Division Managers are unable to resolve the scheduling conflict among themselves, each shall immediately communicate the problem to their respective Civil

Presiding Judges, who shall promptly confer and resolve the conflict.

4. Peremptory designation is defined as trial priority granted by a Presiding Judge or his or her designee, regardless of the age of the case, upon a showing of exceptional circumstances and only where that Presiding Judge or designee has secured the consent of any other Presiding Judge(s) or designee(s) whose trial calendar may be affected by such designation. Peremptory designations should be used sparingly and should only be made no sooner than four weeks before the trial date.
5. When an attorney is actually in trial at the time another case is called for trial, whether or not the case called for trial is older, it either shall be marked "ready-hold" or "subject to" pending completion of the case in trial, or adjourned and another date set.
6. An attorney awaiting assignment for trial in more than one case shall proceed to trial on the first case actually assigned out to a judge for immediate trial, regardless of the age of the other case or cases. The intent of this principle is that a county may not hold an attorney in a case that cannot be assigned to a judge for immediate trial, but must release the attorney to proceed to another county where adverse counsel and the judge are awaiting the arrival of the attorney to commence trial immediately.
7. As stated in *R. 4:35-4*, insofar as practicable, all civil trials should be continuous and uninterrupted, and should run for the full day as prescribed in *R. 1:30-3*.

NOTE: Nothing in this Directive is intended to alter the operation of the designated trial counsel rule (Rule 4:25-4).

These procedures should be followed uniformly in all counties. See AOC Directive #12-05, a copy of which appears in the appendix.

"Pre-assignment" of a case for trial does not constitute a peremptory designation and thus such cases are subject to being trumped by an older case scheduled for trial in another county.

l. Conflict Between Trial and Videotaped Deposition - - Designated Trial Counsel Rule

The videotaped deposition of an expert for use at trial is tantamount to trial testimony, so the designated trial counsel rule should apply in such circumstances; however, trials take precedence over videotaped depositions. The court should take a reasonable approach to try to accommodate conflicts between these two events. For example, if money has been paid out to schedule the video deposition and the adversary cannot attend because he or she is in trial and no one else can cover the deposition, the court may allow the video deposition to be put off but might order the party who cannot go forward on the originally scheduled date to reimburse the party scheduling the video deposition.

m. Videotaping Expert Unavailable for Trial

A previously unavailable expert will be required to appear in person or on videotape on the rescheduled trial date or, with the consent of all parties, the expert's deposition may be read to the jury. See *R. 4:36-3(c)*.

If the trial was previously adjourned because of one expert's unavailability, the court may direct that no further adjournments will be granted for the failure of *any* expert to appear. See *R. 4:36-3(c)*.

n. Pretrial Information Exchange Form

Rule 4:25-7 provides that parties must confer and exchange (unless waived in writing) certain information seven days prior to the scheduled trial date. See Appendix XXIII to the Court Rules. This and other information, as provided in *R. 4:25-7*, should be provided to the court on the trial date. The purpose of the rule is to ensure that counsel review their file prior to arriving at the courthouse for trial and that counsel and the court have all the information they will need to take the case to trial. Trial judges benefit from the attorneys' preparation of the information because the judges are provided with everything they need in a single package. If the case is simple or routine, then preparation of the information required under *R. 4:25-7* should be relatively simple or routine as well. In case of non-compliance, the discretion as to whether to impose a sanction resides with the trial judge.

o. Sanctions May Be Imposed for Failure to Exchange and Submit Pretrial Information Exchange

Failure to exchange (unless waived in writing) and submit the required information may result in sanctions, in the discretion of the trial judge.

The trial judge, *not* the Civil Presiding Judge, should determine if sanctions are appropriate under R. 4:25-7 and, if so, should impose them via an order.

p. No Exceptions to Pretrial Informational Exchange Requirements

Rule 4:25-7 makes no exceptions for cases on particular tracks. All civil cases are subject to the requirements of R. 4:25-7.

q. Stipulations – Continuing Duty to Report During Trial

Attorneys are under a continuing obligation to report to the court any stipulations reached during trial.

r. Good Faith Effort to List Witnesses

Attorneys should make a good faith effort to list in the pretrial information exchange all witnesses to be called at trial. A party, however, will not be foreclosed from calling a witness, properly named in discovery, who is not listed in the pretrial information exchange, if such a good faith effort was made.

s. Bifurcation of Liability and Damages

Rule 4:38-2(b) permits consideration of bifurcation in individual cases only. No county should implement or maintain a policy that calls for routine bifurcation of a particular type of case.

t. Writs for Production of Inmates at Trials at Court Events

Appearing in the appendix is AOC Directive #1-04, relating to writs for the production of inmates at court proceedings.

u. Transportation Costs for Inmates

N.J.A.C. 10A:3-9.13 governs responsibility for the payment of the cost of transporting inmates to and from attendance at court proceedings. A copy appears in the appendix.

SECTION 17 : TRANSFER / REMOVAL OF CASES

a. Procedure for Removal of a Civil Case from State Court to Federal District Court

A defendant seeking to remove a civil action from a State court to the Federal District Court shall file a notice of removal in the District Court to which the action is to be transferred. The notice must contain a short statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon the defendant. The notice of removal must be filed within 30 days after the receipt of the initial pleading. The defendant must give written notice to all adverse parties and file a copy of the notice with the clerk of the State court. Once the notice of filing is received in the clerk's office, the case is removed and shall proceed no further unless or until the matter is remanded from the District Court. At this point, the State court case shall be closed. After prompt review of the notice, the District Court either enters an order for summary remand to the State court when the face of the notice and annexed exhibits do not support a removal or orders an evidentiary hearing to determine whether removal should be permitted. If the District Court decides to permit removal, it shall notify the State court in which the case was pending. See 28 U.S.C.A. 1445.

b. Transferring a Case from One County to Another

When a case is transferred, it is closed in the county transferring it and reopened in the new county under a new docket number. The transferring county will send the originals of all filed documents to the receiving county, keeping copies. If the case is transferred back to the county of original venue, it is closed out in the transferring county and will be reopened in the original county under the original docket number. In such instances, the originals of documents will be returned by the transferring county.

c. Transfer of a Special Civil Part Case to the Civil Part

Rule 6:4-1(b) sets out the circumstances and procedure for transferring a case from the Special Civil Part to the Law Division – Civil Part.

SECTION 18 : SETTLEMENT

a. *Court-Mandated Settlement Events*

No more than one court-mandated settlement conference may be held. See R. 4:5B-3. The requirement of no more than one court-mandated settlement conference prior to the trial date does not preclude continuation of a conference from one day to the next.

Additional settlement conferences may be held with the consent of the parties. If all parties do not consent to more than one settlement conference, the court may nonetheless hold such a conference with those parties that do consent.

b. *New Jersey Property-Liability Insurance Guaranty Association (NJPLIGA) Settlement Programs*

Following the expiration of all stays involving an insolvent insurance carrier, NJPLIGA is willing to participate in a special settlement program listing blocks of its cases for possible resolution. NJPLIGA will send a representative to the vicinage. A special order of dismissal has been developed for use in this program. A copy of the order appears in the appendix. However, in a multi-defendant case, the defendant represented by NJPLIGA cannot be dismissed.

c. *Medicare Liens – Apportionment of Settlement Monies*

When the U.S. Department of Health and Human Services is not a party to a case and there is a Medicare lien and the proceeds of a settlement are allocated entirely to pain and suffering, the court will require that Medicare be noticed of the action and of the pending settlement.

d. *Structured Settlement Protection Act*

The *Structured Settlement Protection Act*, N.J.S.A. 2A:16-63 through 2A:16-69, allows the beneficiary of a structured settlement to assign or sell his or her interest in the future income stream to a financial institution at a discount, provided a judge finds that such assignment or sale is in the best interests of the assignor.

Pursuant to R. 4:44A, such actions should be brought by OSC with a verified complaint. If unopposed, the matter may be decided on the papers. If opposed, a hearing will be scheduled and the applicant (buyer/transferee) and the original payee will be required to testify.

Venue for such actions shall be in the county where the payor/assignor resides. See R. 4:44A-1

e. Special Needs Trusts

While special needs trusts may initially be in the context of a Law Division, Civil Part matter, the actual instrument and all modifications thereto should be handled in the Chancery Division, Probate Part.

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SECTION 19 : COMPLEMENTARY DISPUTE RESOLUTION

Complementary Dispute Resolution or “CDR” is a collection of strategies or methods for resolving legal disputes without the time and expense ordinarily associated with trials and the traditional trial court process. CDR methods complement the traditional litigation process. In New Jersey, Alternate Dispute Resolution or “ADR” refers to the referral of cases to private providers outside of the court system. It should be used as early in the life cycle of a case as possible to avoid many of the pitfalls of the traditional litigation process, including cost, delay, intimidation and polarization of the parties.

Without sacrificing quality, court-sponsored CDR programs offer many benefits: reduced time to resolution; streamlined and less costly discovery; effective case management; increased confidentiality; improved communication of essential issues; participation of litigants in the resolution of their dispute. A wide range of CDR methods are available for use in the civil case management system, including:

- **Non-Binding Arbitration** -- the dispute is submitted to experienced, knowledgeable, neutral attorneys or retired judges to hear arguments, review evidence and render a non-binding decision. Any party has the right to reject the award and demand a trial. The arbitration award, if accepted by the parties and confirmed by the court, can be made into a legally binding and enforceable judgment. Less formal and less complex than trial, arbitration can often be concluded more quickly than formal court proceedings. Arbitration is mandatory for certain types of cases.
- **Voluntary Binding Arbitration** -- the parties file a written consent order, signed by all attorneys and the parties themselves, submitting the case to binding arbitration and voluntarily dismissing their case. Parties are encouraged to enter into high/low agreements of which the arbitrators are unaware. The purpose of the high/low agreement is to give the parties control over the outcome. The case is presented in abbreviated form to a panel of two arbitrators whom the parties have selected. A sitting Superior Court judge also selected by the parties is present but becomes involved in the process only if (and to the extent that) the arbitrators do not agree. The proceedings are held in the courtroom and the judge explains to the parties at the outset and on the record that the determination of the panel will be final and not appealable. All parties must then agree, on the record, that they understand the final and binding nature of the program. The hearing, however, proceeds off the record. The decision of the arbitration panel is memorialized as a judgment if the court does not receive a stipulation of settlement within 30 days. If the parties had entered into a high/low agreement, the plaintiff could get no less than the “low” and the defendant would not be subject to exposure above the “high.” Sample forms appear in the appendix.

- **Court-Annexed Mediation** -- an impartial third party, the mediator, facilitates negotiations among the parties to help them reach a mutually acceptable settlement. A mediator does not make a decision. The parties, with the assistance of their attorneys, work toward a solution with which they are comfortable. Benefits include: preservation of ongoing party relations, savings in trial expenses and decreased psychological and emotional costs to litigants. Cases may either be referred to the Civil Mediation Program, to mediation by the state Office of Dispute Settlement (run by Eric Max), or to private mediators.
- **Summary Jury Trial (SJT)** -- most appropriate for complex cases. SJT allows the parties to learn the probable outcome of an actual jury trial, by conducting an abbreviated trial lasting one half to one full day, with little or no live testimony, before an “advisory” jury. All aspects of a traditional trial are streamlined. A judge presides. Attorneys present their cases by oral summary based upon discovery documents and affidavits of experts. Comprehensible, lay language is utilized in presenting the case and in the jury charge. The verdict is non-binding. Sample forms appear in the appendix.
- **Expedited Jury Trial** -- similar to SJT but binding and appealable. Sample forms appear in the appendix.

For more detailed provisions relating to Civil CDR modalities, see *Civil CDR Program Resource Book*.

SECTION 20 : APPEAL, JUDGMENT, POST-JUDGMENT AND WRITS

a. *Appealing Civil Part Decisions*

Prior to filing an appeal, a party disagreeing with a Judge's decision may also file a motion for a reconsideration under R. 4:50. This motion will be decided by the same judge who handled the original motion.

If a party disagrees with a decision of a Civil Part judge and wishes to appeal, an appeal must be filed with the Appellate Division of the Superior Court within 45 days from the date of the judgment or order being appealed. A kit outlining the procedure appears on the Judiciary's Internet web page at www.njcourtsonline.com.

b. *Civil Judgment and Order Docket*

The Clerk of Superior Court is required by statute and court rule to keep a Civil Judgment and Order Docket. The Civil Judgment and Order Docket creates a record of judgments or orders for the payment of money. See *N.J.S.A. 2A:16-11* and *R. 4:101*.

A judgment docketed on the Civil Judgment and Order Docket becomes a lien on all real property owned by the judgment debtor in the State of New Jersey. Such liens are purely statutory in nature. *Brescher v. Gem. Dunetz. Davison & Weinstein*, 245 *N.J. Super.* 365 (App. Div. 1991).

All judgments filed since 1984 are indexed on the Civil Judgment and Order Docket Automated System.

There are a number of courts and executive agencies that have authority to record judgments. The source of a judgment on the Civil Judgment and Order Docket is distinguished by the prefix to the judgment docket number. The five judgment categories are:

“J” Judgments rendered in the Superior Court Chancery, Law (Civil and Criminal) and Criminal Divisions.

“DJ” Judgments rendered in the Special Civil Part, Municipal Courts, Certificates of Debt filed by State and County Agencies and Foreign Judgments. Certificates of Franchise Assessments under *N.J.S.A. 40a:12a-53.1*.

“MP” Judgments docketed covering municipal parking violations.

“ML” Municipal Public Defender Liens.

“PD” Certificates of Liens filed by the Office of the Public Defender.

The full record for any electronically recorded judgment appears on the ACMS Civil Judgment and Order Docket. There is no paper copy.

c. Handling DJ Judgments

Once a judgment entered in the Special Civil Part is docketed in the Civil Judgment and Order Docket as a statewide lien *i.e.*, after a Statement for Docketing is entered and a DJ number assigned, all further proceedings, except a motion to vacate the Special Civil Part judgment, must be brought under the DJ number in the Law Division, Civil Part in the county of original venue. All State-initiated post-judgment DJ matters must be brought in the Mercer vicinage except motions relating to foreign judgments and matters involving the New Jersey Motor Vehicle Commission (MVC), which must be handled in the county in which the defendant resides or if the defendant is not a resident of New Jersey, the motion shall be venued in the county in which property is located. See *R. 4:3-2(a)* and *N.J.S.A. 2A:18-41*.

d. Revival of Judgments

According to *N.J.S.A. 2A:14-4*, a judgment in any court of record in New Jersey may be revived within 20 years after the date of the judgment but not thereafter. Such applications must be by motion using the original judgment number.

e. Satisfaction of Judgments

A judgment can be fully satisfied in the following ways:

- Paying the judgment creditor in full and receiving from them a Warrant of Satisfaction to be filed in the appropriate clerk's office.
- Wage or Writ of Execution Return – sheriff marks the writ return “fully satisfied” which reflects that the judgment and costs have been paid in full.
- Order of Satisfaction – the judgment debtor can apply to the court for an Order of Satisfaction this when the judgment creditor refuses and/or cannot be located to produce a warrant of satisfaction. The proof submitted by the judgment debtor will be sent by the court to the judgment creditor who will have 10 days to object. If an objection is received, the matter will be set down for a hearing. If no objection is received, the court will determine if the judgment/debt has been satisfied and will enter an order.

- Consent Order – an order signed by both parties consenting to the entry of a satisfaction of judgment maybe submitted to the court for a judge’s signature.
- In order to satisfy of record the lien of a judgment that the judgment debtor claims was discharged in bankruptcy, the debtor must obtain within one year of the date of the discharge, an Order specifically discharging the lien of the particular judgment from the United States Bankruptcy Court. If more than one year from the date of the discharge in bankruptcy has passed, the debtor must file a motion to discharge the lien of the judgment, in the underlying action giving rise to the judgment, seeking an order of the Superior Court pursuant to *N.J.S.A. 2A:16.49.1*.

f. Warrant of Satisfaction

Rule 4:48-1 requires the party in whose favor the judgment is entered to provide a warrant of satisfaction. See *N.J.S.A. 2A: 16-46*.

The judgment creditor should submit a warrant of satisfaction to the court when the judgment debtor has paid a judgment in full or to the judgment creditor’s satisfaction.

The Clerk of the Superior Court enters warrants of satisfaction or satisfied execution returns submitted by the sheriff on the docket when the warrant or satisfied execution is presented for filing. *Rule 4:48-2* sets forth the docketing responsibility of the clerk. See also *N.J.S.A. 2A:16-47* and 48.

The court cannot force a judgment creditor to issue a warrant to satisfy, nor can it require the creditor to pay the filing fee for the warrants it may issue to the debtor. This may necessitate the debtor filing a motion to have the judgment marked satisfied or, to pay the applicable filing fees for warrants issued to them.

g. Vacation of Judgment

If the original judgment is vacated after it was recorded as a “DJ” (docketed judgment) in the Office of the Clerk of the Superior Court, the “DJ” record gets vacated as well. When an order is signed vacating the original judgment a copy of the order will be sent to the Superior Court Clerk’s Judgment Unit and the “DJ” will be vacated.

h. Workers' Compensation Judgments

Certified copies of workers' compensation judgments against uninsured defendants should be filed directly with the Superior Court Clerk's Office in Trenton and the filing fee is \$35. Where the workers' compensation judgment is against an insured respondent, a certified copy of the judgment is filed in the county in which the hearing was held. See *N.J.S.A. 34:15-58*. There is no filing fee.

Workers' compensation judgments are not assigned a "DJ" number until the transcript is forwarded to the Judgment Unit of the Superior Court Clerk's Office.

Upon request, the Deputy Clerk of the county will prepare and issue a transcript of judgment to the person requesting the docketing. The Deputy Clerk signs the transcript and there is a \$10 issuance fee, payable to Treasurer, State of New Jersey.

The person requesting the docketing is to complete the certification of amount due and submit the transcript to the Superior Court Clerk's Office for notation in the statewide judgment system.

The filing fee for docketing the transcript with the Superior Court is \$35, payable to Treasurer, State of New Jersey. The mailing address is:

Superior Court of New Jersey
Office of the Clerk
P.O. Box 971
Trenton, NJ 08625.

A copy of the transcript of judgment reflecting the assigned judgment number and date of entry in the statewide judgment system will be returned to the sender if an additional copy and a self-addressed, stamped envelope are provided.

i. Procedures for Filing of Foreign Judgments

The *Uniform Enforcement of Foreign Judgments Act*, *N.J.S.A. 2A:49A-25*, permits a judgment, decree, or order of the United States or of any other court, which is entitled to full faith and credit in New Jersey, to be filed with the Clerk of the Superior Court. The Clerk shall treat the foreign judgment in the same manner as a judgment of the Superior Court of New Jersey.

Pursuant to *Enron (Thrace) Exploration & Production v. Clapp*, 378 *N.J. Super.* 8 (App. Div. 2005), foreign country money judgments are enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit, provided that the provisions of the *Uniform Foreign Country Money Judgments Recognition Act*, *N.J.S.A. 2A:49A-16 to -24* are met.

Requests to record foreign judgments should be directed to the Superior Court Clerk's Office, Judgment Unit, P.O. Box 971, Trenton, NJ 08625. A kit for use in such matters can be found on the Judiciary's Internet website at www.njcourtsonline.com.

j. Judgment by Confession

A Judgment by Confession (also known as Confession of Judgment) is the entry of a judgment for the amount of a claim upon a written admission or acknowledgment by a debtor usually without the formality of a court proceeding. *Rule 4:45-2* sets forth the procedure for entry of a judgment by confession.

k. Reporting of Judgments Involving Insurance Fraud

Civil judgments in cases of auto insurance fraud must be reported to the New Jersey Motor Vehicle Commission (MVC) wherein a mandatory suspension of the judgment debtor's driver's license is imposed pursuant to *N.J.S.A. 39:6A-15*.

l. Naming of Parties in Judgment

Although a suit may be started against a party designated by an initial letter or letters or a contraction of a given name or names, no final judgment may be entered against a party so designated unless the plaintiff amends the complaint to state at least one full given name of the defendant or the court otherwise orders.

m. Amount of Judgment

Attorney's fees or collection charges can only be included in a judgment when the contract forming the basis of the lawsuit or a statute provides for such fees or charges in a fixed amount or percentage. See *R. 4:43-2(a)(c)*.

n. Allowable Costs

A party to whom costs are awarded or allowed by law or otherwise in any action, motion or other proceeding, in the Law Division of the Superior Court, is entitled to include in the costs such necessary disbursements, as follows:

- The legal fees of witnesses, including mileage for each attendance, masters, commissioners and other officers;
- The costs of taking depositions when taxable, by order of the court;
- The legal fees for publication where publication is required;
- The legal fees paid for a certified copy of a deposition or other paper or document, or map, recorded or filed in any public office, necessarily used or obtained for use in the trial of an issue of fact or the argument of an issue of law, or upon appeal, or otherwise;
- Sheriff's fees for service of process or other mandate or proceeding;
- All filing and docketing fees and charges paid to the clerk of court; and
- Such other reasonable and necessary expenses as are taxable as allowed by the judge or by express provision of law, or rule of court. See *N.J.S.A. 22A:2-8*.

o. Vacation of Judgment

A final judgment of default can be vacated or reversed upon the court's granting of a motion to vacate the default. A motion to vacate a "DJ" judgment must be filed in the Special Civil Part.

p. Assignment of Judgment

In order to assign a judgment, the judgment creditor must make a written request assigning the judgment and include the name and address of the person or entity to whom the judgment is being assigned. The request must be sent to the Judgment Section of the Clerk of the Superior Court's Office in Trenton. The request must be accompanied by a \$5 fee, made payable to "Treasurer, State of New Jersey."

q. Redaction of Social Security Numbers from Name Change Judgments

The statute governing name changes requires that the name change judgment include the Social Security number of the person whose name is being changed (*N.J.S.A. 2A:52-2*). The corresponding court rule (*R. 4:72-4*) requires publication of the name change judgment in a newspaper of general circulation in the county of plaintiff's residence. Pursuant to the rule, the plaintiff's social security number must be redacted

from the published judgment. The unredacted judgment must be filed with the Deputy Clerk of Superior Court in the county of venue and the appropriate office within the Department of Treasury.

r. Orders from Criminal Division Entering Civil Judgments

Criminal Division orders entering a civil judgment, *e.g.*, for restitution to a crime victim, should be sent to the Superior Court Judgment Unit in Trenton for docketing.

s. Requests for Judgment Searches

All requests for statewide judgment searches should be referred to the following:

Clerk of the Superior Court
Judgment Unit
P.O. Box 971
Trenton, NJ 08625
Phone: 609-984-4204.

t. Requests for Certified Copies of Judgments

Exemplified copies of judgments entered in the Law Division, Civil Part can be obtained from the county in which the judgment was entered. See p. 21-3 for the required fees.

u. Post-Judgment Motions for Discovery

In order to seek information about a judgment debtor's assets and income, following the entry of a judgment in the Law Division, Civil Part, a judgment creditor may file a motion for discovery with the court. The motion must state the amount due on a judgment and request that the court issue an order requiring the judgment debtor or any person who has information about his or her assets or income, to answer questions concerning these assets at a place and time specified in the court order. If the person does not comply with the order and fails to appear at the specified time and place, he or she is subject to contempt sanctions enforceable by the court. See R. 4:59-1(e).

v. Motion to Enforce Litigant's (Creditor's) Rights

If an individual fails to answer or provide complete answers in response to an order for post-judgment discovery, a judgment creditor may make a motion to the court to enforce his or her rights as a creditor. This application notifies the judgment debtor that an appearance before the court is now required. The purpose of the appearance is to have a judge advise the person that he or she has failed to comply with a prior order of the court and may be punished with further sanctions. The appearance may also provide an opportunity for the development of a mutually agreed upon arrangement for the satisfaction of the debt. If the respondent does not appear on the hearing date, the court may issue an order for arrest as will be discussed below. See *R. 1:10-3*.

w. *Order to Arrest/Warrant for Arrest*

If the respondent to the motion does not appear on the hearing date of the motion for enforcement of the creditor's rights, the judge may sign an Order to Enforce Litigant's Rights. This Order must be served immediately. The respondent then has 10 days to answer. If no timely answer is received, a warrant for arrest can be issued by the court upon request. A sheriff's officer can only serve the warrant. There is a fee for serving this document. The warrant authorizes the officer to go to the address indicated on the notice of motion and make arrangements for all parties to be brought before the court. At that time, the judge may incarcerate the person until he or she complies with the court's Order.

x. *Writs of Execution*

See *R. 4:59 et seq.* Writs of execution need not be signed by a judge; printing of the judge's name and signing of the writ by the Deputy Clerk in the appropriate space is sufficient. Two of the most common approaches for collecting judgments are to request the court to issue an execution on goods and chattels or an execution against a debtor's wages. It should be noted that to ensure that the judgment debtor is aware of the method by which interest has been calculated and that all partial payments have been accounted for, *R. 4:59-1* has been amended effective September 1, 2006 and requires that the endorsement on an application for a writ explain in detail the method by which interest has been calculated and demonstrate how all partial payments have been applied; and that a copy of the writ with the endorsement be served on the judgment debtor. Subparagraph (h) of the rule has been added to make it clear that all the forms in Appendices XI-I and XI-L through XI-R, inclusive, are to be used in both the Civil and Special Civil Parts. See *R. 4:59-1* and Appendices XI-I and XI-L through XI-R and XI-X and XI-Y.

• **Execution on Goods and Chattels. See *R. 4:59-1(a)*.**

A creditor can apply to the court for an execution on goods and chattels once the creditor has a valid judgment. The creditor may also request that court

costs be added to the amount owed on the judgment. Costs are usually the filing and service fees. The execution allows the sheriff to collect on the debt owed by taking possession of the debtor's personal property, such as their money in bank accounts (bank levy), furniture, motor vehicles, animals, notes, stocks and bonds. *N.J.S.A. 2A:17-4* provides that executions, including bank levies, can be issued simultaneously in any county, not simply the county in which the case was venued. The sheriff can attempt to sell property to satisfy the debt.

One of the most effective ways to collect on the judgment is to levy on a bank account. To do this, the creditor must know where the debtor has a savings, checking or other account. He or she must know the name and address of the bank. Account number information is helpful. Once the sheriff levies on the account, the money is frozen. The creditor must then make a motion to the court for an order to turnover funds. The sheriff will serve the signed order on the bank, which will forward the levied funds to him or her for disbursement.

- **Execution on Wages. See *R. 4:59-1(d)*.**

If the creditor knows where the debtor works, an attempt can be made to garnish the debtor's wages. Wage executions differ from executions on goods and chattels in that proceedings against the wages must be made on notice to the debtor. The notice of application for wage execution must be mailed to the debtor by certified and regular mail and filed with the court. It specifies the name of the employer and tells the judgment debtor that any objection must be made in writing within 10 days or the execution will be issued without further notice. It must also advise the defendant that an objection may be made at any time after the order is issued and specify the procedure for so doing. A supporting certification sets forth the date of the judgment and the total amount due, including post-judgment interest. If an objection is received a hearing will be scheduled. If no objection is received, the court will issue the order for wage execution. After the order is signed and the wage execution has been issued, the judgment debtor has a continuing right to object or apply for a reduction of the amount withheld. If such an objection or application is made, the wages collected will be held by the sheriff pending resolution of the matter. The order for wage execution shall include provisions directing the employer to immediately provide a copy of the order to the employee judgment-debtor and advising the employee judgment-debtor of their right at any time to notify the court, in writing, of reasons why the levy should be reduced or discontinued. See *R. 4:59-1(d)*.

Unlike other executions, the wage execution is a continuing levy or garnishment from the time served upon the employer until the amount specified in the order is paid or wages cease. Only one execution against wages may be satisfied at any one time. Priority is determined by the time of presentation to the employer. The amount of the garnishment is limited by federal and state

legislation. Note that wage executions for child support take priority over all others.

y. *Certification and Notice to the Director of the New Jersey Motor Vehicle Commission - - Judgments Based on Motor Vehicle Accidents*

In actions involving motor vehicle accidents in which the amount of a judgment is \$500 or more, the defendant must pay this money to the plaintiff within 60 days of the judgment, or alternatively file a formal appeal. If the defendant fails to pay the money owed within the 60-day period or file a formal appeal, the plaintiff may file a form SR-38. A copy of the form appears in the appendix. Once filed, this document is sent to the New Jersey Motor Vehicle Commission (MVC) where upon receipt, the MVC will issue a revocation of the defendant's driving privilege until such time that the judgment is fully paid. When the judgment is fully paid, the plaintiff must file a SR-39 form with the court. A copy of this form also appears in the appendix. Thereafter, this form will be immediately forwarded to the MVC to restore the defendant's driving privileges. The SR38 and SR39 are only issued by the Judgment Unit of the Superior Court Clerk's Office in Trenton if the judgment has been recorded in Trenton and has a J or DJ number. Otherwise, the SR38 and SR39's should be issued in the vicinage. This is usually the case for Special Civil Part judgments not issued a DJ number.

z. *Taxation Certifications of Debt*

Taxation Certifications of Debt are entered onto the Civil Judgment and Order Docket and given a DJ number. Subsequently, the Division of Taxation issues a Warrant of Execution to the Superior Court of New Jersey, Law Division, County of "(county name)" for filing. The warrant expires 60 days after the docketing.

aa. *Proof of Service of Post-Judgment Papers*

In accordance with R. 1:5-3, green cards are not to be routinely required as part of the proof of service for post-judgment applications. However, it is permissible to require green cards as proof of service in applications for arrest warrants.

bb. *Sheriff's Handling of Judgment Creditors' Funds – Standards for Disbursement*

The Conference of Civil Presiding Judges has developed, in consultation with the county Sheriffs, proposed standards for the disbursement of funds collected by the Sheriffs pursuant to writs or other court orders. It was agreed that funds should be disbursed within 15 days of collection.

cc. Special Civil Part Judgments Docketed in Trenton

Once a judgment entered in the Special Civil Part is docketed in the Judgment Unit of the Superior Court Clerk's office in Trenton, all further proceedings, except a motion to vacate the Special Civil Part judgment, must be brought under the DJ number in the Law Division, Civil Part in the county of original venue. A motion to vacate the judgment must be brought in the Special Civil Part. Requests to assign the judgment, for exemplified copies and for the issuance of writs and warrants following the grant of a motion brought in the Law Division, should be sent to the Judgment Unit of the Superior Court Clerk's office in Trenton.

dd. Requests for Certified Copies of Judgments

Exemplified copies of judgments entered in the Law Division, Civil Part can be obtained from the county in which the judgment was entered. See p. 21-3 for the required fees.

ee. Discharging DJs in Bankruptcy

See pp. 20-1 and 20-2.

ff. Compliance with Child Support Lien Law

N.J.S.A. 2A:17-56.23b requires attorneys and parties to undertake a search, using a private firm, to determine if the party receiving money as a result of a settlement or judgment, or in a number of other situations, is a child support debtor. If so, the amount of child support owed is a lien against the net proceeds. The legislation provides as follows:

- Before distributing any net proceeds of a settlement, judgment, inheritance or award to the prevailing party or beneficiary:
 1. the prevailing party or beneficiary shall provide the attorney, insurance company or agent responsible for the final distribution of such funds with a certification that includes the prevailing party's or beneficiary's full name, mailing address, date of birth and social Security number; and

2. the attorney representing the prevailing party or beneficiary shall initiate a search of New Jersey judgments, through a private judgment search company that maintains information on child support judgments to determine if the prevailing party or beneficiary is a child support judgment debtor. *N.J.S.A. 2A:17-56.23b(b)*;
- If the certification of the search company shows that the prevailing party or beneficiary is not a child support judgment debtor, the net proceeds may be paid to the prevailing party or beneficiary immediately. If the certification shows that the prevailing party or beneficiary is a child support judgment debtor, the attorney, insurance company or agent that initiated the search shall contact the Probation Division of the Superior Court to arrange for the satisfaction of the child support judgment. *N.J.S.A. 2A:17-56.23b(c)*. See *Strickland v. 212 Corp of N.J.*, 380 N.J. Super. 248 (Law Div 2005).

gg. Other Writs

Other writs include:

- **Writs of Replevin**

A writ of replevin can only be issued by order of the court. It is usually for the recovery of tangible personal property that has been wrongfully taken or detained. The posting of a replevin bond with the court is usually required before the Sheriff can act on the writ. These writs are returnable in 30 days. See *R. 4:61 et seq.*

- **Writs of Attachment**

A writ of attachment can only be issued upon the court's order on plaintiff's motion and is usually sought in the beginning of litigation to ensure, that if the plaintiff is successful, assets are preserved and available to satisfy a judgment. It allows the seizure of the debtor's property. Some instances in which attachments are issued include: when the defendant is a nonresident of this State; the defendant flees; or the defendant is a corporation created by the laws of another State which allows attachments against New Jersey corporations authorized to do business in that State. See *R. 4:60 et seq.*

Under *R. 4:60-6*, there are two ways a writ of attachment for property located in a county other than that of the docketed litigation may be issued. Subsection (a) states that the court where the matter is docketed may, in its discretion, order the deputy clerk of the Superior Court of a county where

the property is located to issue a writ addressed to the sheriff of that county and forward a copy to the judgment unit of the Superior Court Clerks' office in Trenton, where it will be entered in the Civil Judgment and Order Docket.

In either case, the writ must be prepared by the filer, not by the court.

SECTION 21 : FEES

a. Payee

All checks for fees paid to the court in civil matters except for deposits of money into court must be made payable to Treasurer, State of New Jersey. Deposits of moneys into court, to be held in the Superior Court Trust Fund, should continue to be made payable to the Superior Court of New Jersey. See *R. 1:13-10*.

b. Applications to Waive Filing Fees

Rule 1:13-2 allows the court to waive payment of fees for indigent persons, *i.e.*, those unable to pay filing fees, who apply for waiver and who provide verification of their indigent status. Copies of the pleadings to be filed must accompany the application.

c. Filing Fees – State of New Jersey/State Agencies

The State of New Jersey and any of its agencies, including the Motor Vehicle Commission, are exempt from payment of all filing fees. See *N.J.S.A. 22A:2-22*.

d. New Jersey Property Liability Insurance Guaranty Association (NJPLIGA) not Exempt from Fees

The NJPLIGA is not a state agency and thus is not exempt from payment of filing and other court fees.

e. Filing Fees – Prosecutor

The county prosecutors' offices are not exempt from the payment of filing fees even in forfeiture actions in which county prosecutor is acting on behalf of the State.

f. Fees for Name Changes – Family Members

When a name change is brought, as a single complaint, by a parent and adult children or by registered domestic partners, a single fee is due and a single docket number will be assigned.

g. Fees for First Papers

When the first paper filed by a particular party is not a complaint or an answer, the complaint or answer fee, whichever is applicable, must be paid. Therefore, if the first paper filed by a party is a stipulation extending time to answer only or a motion in lieu of

answer, the answer fee must be paid. If the first paper is a motion in lieu of answer, the fee for filing a motion is not required, only the answer fee must be paid.

h. Refund of Filing Fees

Filing fees generally will not be refunded. However, the court may, as a courtesy but not an obligation, choose to make a refund of a filing fee only when the fee has not been processed AND a docket number has not yet been assigned.

i. Consolidated Cases – Filing Fees

For purposes of filing fees, consolidated matters (non-mass torts) are treated the same as singular cases.

j. Fees for Omnibus Motions

When a single motion is filed that relates to a number of cases, for instance, when the cases involve a common insurance carrier that is in rehabilitation, a single motion fee may be charged.

k. Fees Payable When Filers Are Spouses

When a document is filed on behalf of a husband and wife, and a single filing fee is required.

l. Fee for Cases Remanded from Criminal Division

If a matter is remanded from the Criminal Division, a \$200 filing fee must be paid.

m. Fees for Motions to Turnover Funds and Motions to Withdraw Funds

The fee for a motion to turnover funds is \$30, regardless of the amount of the funds. A motion to turnover funds is a postjudgment motion to get access to funds that were the subject of a levy. This is different from the motion to withdraw funds for which the filing fee is \$30 for funds less than \$100; \$30 plus an extra \$5 for funds of \$100 but less than \$1000 or a total of \$35; and \$30 plus an extra \$10 for funds of \$1000 or more or a total of \$40. The motion to withdraw is filed to get access to funds previously paid into court. An example is when a carrier pays the amount of the insurance policy limits into court during the pendency of a personal injury case.

n. Fees for Exemplified and Certified Copies

Fees for exemplified copies of Law Division, Civil Part judgments are computed as \$5 for the certification, plus \$5 for the exemplification plus the \$0.75 per page fee. Thus the fee for an exemplification is \$10 plus the per page copy fee. An exemplification fee for a single page document is \$10.75; for a five-page document the fee is \$13.75. Note that the fee for an exemplified copy of a Special Civil Part judgment is different (\$5) and is governed by a different statute.

Fees for certified copies of civil documents are as follows:

- If a copy of the document to be certified is supplied by the requestor and if this is the first request by the particular requestor for the particular document, there is no fee;
- If the copy of the document is not supplied or for all requests after the initial request, the fee is \$5.00 per request. There is no charge for the first copy of a name change judgment and writ of execution.

o. Fees for Defense Motions to Dismiss

When the first paper filed by a defendant is a motion to dismiss, the \$135 fee for the defendant's first pleading is charged. Even if the motion is granted, the fee is non-refundable.

p. Fees for Motions to Transfer from Special Civil Part

The fee for a filing of a motion to transfer a case from the Special Civil Part to the Civil Part is \$30 (the Civil Part motion filing fee), as these motions must be brought in the Civil Part. If the motion is granted, the moving party must pay the applicable Civil Part filing fee for its first paper, less any filing fee previously paid when originally filing in the Special Civil Part.

q. Fees for Condemnation Appeals

Rule 4:73-6 provides that an appeal from the Report of the Commissioners on a condemnation case can be filed under the original docket number without a fee. However, the second part of the rule requires a new docket assignment for appeals that should be severed and for these the fee is \$200 per property.

r. Presumptive Fees to Condemnation Commissioners

The standard rate for compensating condemnation commissioners should be \$200 per hour for commissioners and \$225 per hour for the chair or lead commissioner.

s. Fees for Wage and Hour Matters

If a wage and hour case is filed pursuant to *R. 4:74-8* as an appeal from a judgment obtained in the Wage Collection Section of the Department of Labor and Industry (now known as the Department of Labor and Workforce Development), the filing fee is \$75 pursuant to *N.J.S.A. 22A:2-27*. If, on the other hand, the case is brought not as an appeal, but as a summary action, the filing fee is \$230 (*i.e.*, \$200 for the verified complaint and \$30 for the OSC).

t. Restoration Fees Following Reinstatement Under R. 4:23-5

The restoration fee payable under *R. 4:23-5*, whether restoration is done via motion or consent order, must be submitted with the motion or consent order.

u. Fees Upon Remand from Federal Courts

When a matter is remanded from the Federal Court to the Law Division, Civil Part, the remand should be considered as a new filing and the party charged the full \$200 filing fee. Likewise, even if the defendant filed an answer in the Federal Court, the defendant is charged the full filing fee upon filing his/her answer in the Superior Court. The only time no fees would be charged is when the matter originated in the Superior Court and was removed to the Federal Court. In that situation, no fees would be charged if the matter is subsequently remanded back to the Superior Court, as long as the parties paid the appropriate fees prior to the remand.

v. Fees for the Issuance of Subpoenas By the Court

The fee for issuance of a subpoena is \$5.00. See *N.J.S.A. 22A:2-7*.

w. Fees for the Issuance of an Arrest Warrant

The fee for the issuance of a civil arrest warrant is \$5. To execute the warrant, additional fees are charged by the county Sheriffs' offices.

x. Fees for Election-Related Matters

There is no filing fee for actions seeking a recount following an election. For all other election-related matters, which should be brought as summary actions pursuant to *R. 4:67* via verified complaint and OSC, the filing fee is \$230.

SECTION 22 : ACCESS TO PROCEEDINGS AND COURT RECORDS

a. *Policy of Open Records*

Rule 1:2-1 states the Judiciary's policy favoring open court and unsealed records.

b. *Confidentiality of Court Records*

Rule 1:38 provides that all records required by statute or rule to be kept on file by any court, office or official within the judicial branch of government shall be deemed a public record and shall be available for public inspection and copying, except certain specified records. Exceptions relevant to the Civil Division include:

- personnel and pension records;
- records pertaining to investigations and reports made for a court;
- completed jury questionnaires and preliminary lists of jurors;
- records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection;
- records impounded or kept confidential via court order; and
- statistical reports prepared by judges for the AOC.

c. *Access Policies and Procedures*

Attached and appearing in the appendix is a copy of AOC Directive #15-05 which provides guidelines and uniform procedures and forms for access to case-related records.

d. *Civil Cases Involving Child Victims of Sexual Abuse*

N.J.S.A. 2A:82-46 requires that all court documents that state the name, address and identity of a victim who was a minor at the time of the alleged commission of certain sexual assault, endangering the welfare and abuse and neglect cases shall be confidential. Although the statute reads in terms of "the name, address and identity," if any one of the three is present, court personnel will treat the document as confidential since that appears to be the intent of the Legislature. Such documents will not be disclosed to the public unless a judge authorizes such disclosure for good cause after notice is given to all interested parties and a hearing is conducted on the matter. The Act also provides that the name of the victim shall not appear in any public record; rather, initials or a fictitious name shall appear. The offenses covered by the Act include aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact, endangering the welfare of children under *N.J.S.A. 2C:24-4*, and actions alleging an abuse or neglect under *N.J.S.A. 9:6-8.21 et seq.* Any person who purposefully discloses to the public a document in violation of the statute is guilty of a disorderly persons offense.

The following procedures apply in such cases:

- **Impoundment of Case Files**

In all actions coming under the statute, the complaint and other public records must use initials or fictitious names in place of the name, address and identity of any victim under age 18.

In situations where court personnel have identified cases as falling within the confidentiality provisions of the Act – and notwithstanding that the initial case filings may have failed to comply with the statutory provisions regarding the use of initials and fictitious names – court personnel have been directed to impound the records.

- **Transcripts**

Court reporters and other transcribers will continue to produce the court proceedings in covered cases verbatim. Such verbatim transcripts shall be available for normal use by the court and the parties. However, any transcript that identifies, by name, address or otherwise, a child victim of an offense covered by the statute shall not be released to or inspected by the public unless the court authorizes the release of the transcript following a hearing as provided in the statute. If the court decides to release such a transcript, it shall make provision for protection of the child victim's identity as the court deems appropriate.

- **Control of Files**

There is a need to ensure strict control of files to prevent inadvertent dissemination of child victim information in violation of the statute. On occasion, trial court files are informally reviewed in the courtroom by attorneys and others, including members of the media. In addition, files are often circulated to judges who make duplicate copies of part or all of the file. In cases coming under the statute, any and all requests for documents, except for requests by parties, their attorneys, or judges involved in deciding the case, shall be directed to a centrally designated court office that will have responsibility for maintaining procedures to ensure compliance with the statute.

Unless the presiding judge of a division designates an alternate procedure, in each division such central court office shall be the division manager's office, and the division manager will coordinate the response to a request with the county clerk and other court personnel. See AOC Directive #11-90.

e. Civil Commitment Records

Pursuant to *N.J.S.A.* 30:4-24, records involving civil commitments are confidential. These records are maintained in the office of the County Adjuster.

SECTION 23 : INTERPRETING AND TRANSLATING

a. *Interpreting Standards*

AOC Directive #3-04 sets forth the Standards for Delivering Interpreting Services in the New Jersey Judiciary. The Standards are grounded in four basic tenets: (1) that people who are limited in their ability to speak and understand English or who are deaf or hard of hearing should have the same access to the courts as those who are neither; (2) that only qualified interpreters may ordinarily interpret; (3) that all costs for interpreting are to be borne by the Judiciary except in very limited instances; and (4) that team interpreting should be used for events of more than two hours.

Standard 1.4, Reimbursement of expenses for interpreting services provides as follows:

The Judiciary may seek reimbursement when it incurs actual expense for interpreting services:

- that could have been avoided but for the failure of a party or an attorney to give reasonable attention to the matter; or
- that an attorney or a *pro se* litigant requests but fails to use during a court event.

This standard points out the need for attorneys and litigants to be responsible in their use of public funds expended for interpreting services. In its use of the criterion, “failure...to give reasonable attention”, the standard parallels the language of *New Jersey Court Rule* 1:2-4, which delineates sanctions for attorneys who fail to appear for a court proceeding.

Examples of the types of events that might trigger a shifting of incurred interpreting costs to a party:

- requesting an interpreter, then not giving the judiciary sufficient advance notice that the interpreter is no longer needed, despite having such advance notice, or
- requesting an interpreter, then failing to appear with no legitimate excuse for such failure to appear.

The Judiciary’s professional agreements with free-lance interpreters provide for the interpreters to be paid for scheduled and subsequently cancelled services **unless** 24 hours’ notice of cancellation is given for a court event of less than two days duration, or 48 hours notice of cancellation for a court event of two or more days. The notice period excludes weekends and holidays.

The problem arises when interpreting services have been scheduled and at the last minute the court event is canceled because, for example, an expert is unavailable or a witness becomes ill. The requisite notice of cancellation is not provided to the interpreter, so he or she must be paid. The question is, must the court pay the interpreter's fee or can this expense be charged to the party requesting that the scheduled court event be adjourned (why may not be the party requiring interpreting services)?

Standard 1.4 can be interpreted to allow the court to shift the cost of the interpreter to the party requesting adjournment of the scheduled court event at which the interpreter is needed if, barring exceptional circumstances, that party does not adhere to the deadlines set forth in the Statewide Adjournment Policy for Civil Trials and Arbitrations and in *R 4:36-3*.

SECTION 24 : MISCELLANEOUS PROVISIONS

a. *Accepting Faxed Documents*

Only adjournment requests and other particular documents that a judge might direct be faxed to him or her, on a case-by-case or document-by-document basis, are acceptable. Filing of pleadings and other papers by fax is not permitted.

b. *Friendlys and the Surrogate's Intermingled Trust Fund*

Rule 4:44 requires court approval of a settlement on behalf of a minor or mentally incapacitated person (previously referred to as an “incompetent”). The majority of settlements paid on behalf of minors and incapacitated individuals are paid into the Surrogate's Intermingled Trust Fund (SITF). Whenever the proceeds of such a settlement are to be paid into the SITF, a uniform order for judgment form must be used. A copy of the form appears in the appendix. Before scheduling a friendly hearing seeking approval of a settlement on behalf of a minor or mentally incapacitated individual, counsel should contact the county surrogate and ensure that the surrogate has reviewed and approved the proposed completed order for judgment form.

c. *Court Hours*

The hours for court offices to be open are established by court order pursuant to *R. 1:30* and are 8:30 a.m. to 4:30 p.m. Only during those hours should the office accept filings. After 4:30 p.m., a litigant may contact the judge on emergent duty. Counties, other than Essex, using drop boxes for the receipt of filings after normal business hours must date stamp any papers received after 4:30 p.m. for the next business day. In Essex County, filings placed into the drop box by 7:00 p.m. are filed on the date of receipt. Filings received after 7:00 p.m. are filed on the next business day.

d. *File Stamp*

The filing stamp does not have to indicate the division or part of the Superior Court in which the document is filed although that must be noted in the caption. The stamp serves as an endorsement and evidence by the clerk that the filing has been received and/or filed and for that reason and to authenticate the receipt, the clerk or deputy clerk's signature should appear on the stamp.

e. Stamping Papers for Cases Venued in Another County

If a party submits documents relating to a case venued in another New Jersey county, staff will accept the papers, date stamp them “received” and forward them, along with any fees received, to the county of venue.

f. Non-Acceptance of Mail Without Return Address

Court staff do not mail conformed copies of filed documents in envelopes containing the return address of the court. In such situations, if the postage provided by the filer is insufficient, the court will be assessed for postage due. Accordingly, filers wishing a conformed copy of the filed document should provide an addressed, stamped envelope with the filer’s return address.

g. Handling Requests for ACMS Reports

All requests for automated reports should be directed to the following:

Superior Court Clerk’s Office
Records Management
P.O. Box 971
Trenton, NJ 08625.

h. Remote Access to ACMS and Purchase of Reports

Individuals can obtain remote, dial-up access to ACMS by subscribing to a special service provided by the Office of the Superior Court Clerk. Once they have subscribed, they may also purchase from the Clerk’s Office any available automated reports. These reports may also be purchased by non-subscribers to the remote access service. Inquiries as to the cost of such services and reports should be directed to the Superior Court Clerk’s Office.

i. Requests for Certification of Opinions

Because judges are required to file opinions with the Clerk of the Superior Court, opinions can be certified. Therefore, requests to certify opinions should be directed to that office.

j. Issuance of Subpoenas

A subpoena may be issued by the clerk of the court and the fee is \$5.00 pursuant to *N.J.S.A 22A:2-7* or by an attorney or party in the name of the clerk. It shall state the name of the court and the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The testimony of a party who could be subpoenaed may be compelled by a notice in lieu of subpoena served upon the party's attorney demanding that the attorney produce the client at trial. If the party is a corporation or other organization, the testimony of any person deposable on its behalf, under *R. 4:14-2*, may be compelled by like notice. The notice shall be served in accordance with *R. 1:5-2* at least 5 days before trial. The sanctions of *R. 1:2-4* shall apply to a failure to respond to a notice in lieu of a subpoena. See *R. 1:9-1*.

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CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial Law Division

Civil Part pleadings (not motions) under Rule 4:5-1

**Pleading will be rejected for filing, under Rule 1:5-6(c),
if information above the black bar is not completed or
if attorney's signature is not affixed.**

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE: CK CG CA

CHG/CK NO.

AMOUNT:

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME

TELEPHONE NUMBER

COUNTY OF VENUE

()

FIRM NAME (If applicable)

DOCKET NUMBER (When available)

OFFICE ADDRESS

DOCUMENT TYPE

JURY DEMAND

YES NO

NAME OF PARTY (e.g., John Doe, Plaintiff)

CAPTION

CASE TYPE NUMBER
(See reverse side for listing)

IS THIS A PROFESSIONAL MALPRACTICE CASE? YES NO

IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING
YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.

RELATED CASES PENDING?

YES NO

IF YES, LIST DOCKET NUMBERS

DO YOU ANTICIPATE ADDING
ANY PARTIES (arising out of
same transaction or occurrence)? YES NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

NONE
UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT,
PAST OR RECURRENT
RELATIONSHIP? YES NO

IF YES, IS THAT
RELATIONSHIP

EMPLOYER-EMPLOYEE
FAMILIAL

FRIEND/NEIGHBOR
BUSINESS

OTHER (explain)

DOES THE STATUTE GOVERNING THIS
CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? YES NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED
DISPOSITION:



DO YOU OR YOUR CLIENT NEED
ANY DISABILITY ACCOMMODATIONS? YES NO

IF YES, PLEASE IDENTIFY THE
REQUESTED ACCOMMODATION:

WILL AN INTERPRETER BE NEEDED?

YES NO

IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

Track II — 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE – PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 699 TORT – OTHER

Track III — 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV — Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Mass Tort (Track IV)

- | | |
|---|--------------------------------|
| 240 REDUX/PHEN-FEN (formerly "DIET DRUG") | 271 ACCUTANE |
| 241 TOBACCO | 272 BEXTRA/CELEBREX |
| 248 CIBA GEIGY | 274 RISPERDAL/SEROQUEL/ZYPREXA |
| 264 PPA | 601 ASBESTOS |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 619 VIOXX |
| 268 MANUFACTURED GAS PLANT (MGP) | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

Verbal Threshold

Putative Class Action

Title 59

NEW JERSEY JUDICARY

Plaintiff

FILING FEE WAIVER REQUEST

Based on Inability to Pay

VS.

Defendant

Applicant's Name:			Docket Number:
Last:	First:	MI:	
Home Address:			Home Phone #: ()
Street: _____ Apt No.: _____			
City: _____ State: _____ Zip: _____			Number of Dependents

I, _____, am over the age of 18 and request no court fee be charged as I am without funds to pay the fee. I am a (check one) **Plaintiff** **Defendant** in the following court:

Civil

Special Civil Part

General Equity

Probate

The following are facts about my financial condition. My income before taxes is:

Salary (per month): \$	Other Income (per month): \$
Specify source of other income, including prisoners' accounts in accordance with <i>N.J.S.A. 30:4-16.3</i> (per month):	

The following is a complete list of everything I own and owe, as far as I know:

Own	Amount \$	Owe (per month)	Amount \$
Money in any bank accounts		Rent/mortgage	
Automobiles		Food	
Real estate		Utilities	
Insurance with cash value		Alimony/child support	
Money owed to me		Auto payment	
Other (specify)		Other (specify)	
TOTALS		TOTALS	

Please attach documents as to income (pay stubs, welfare documents, unemployment documents, last bank statement, etc.)

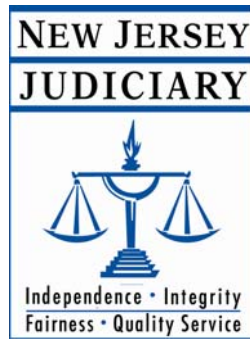
I certify the statements made by me in this document are true and that my proposed pleading is attached. I understand that if I give any false information, I may be punished by the court.

I am signing this statement to explain to the court why I am unable to pay any court fees in this lawsuit.
(Rule 1:13-2(a))

Fee Waived: ☐ Yes ☐ No

Signature (Applicant):
Date:
_____ (Print Name)

Signature (Judge):
Date:
_____ (Print Name)



INFORMATION FOR OUT-OF-STATE ATTORNEYS ON THE PROCEDURE TO PURSUE DISCOVERY OF A NEW JERSEY RESIDENT FOR USE IN OUT-OF-STATE LITIGATION

(Superior Court of New Jersey - Law Division)

PURPOSE OF THIS PACKAGE

Where foreign litigation requires a non party witness' written interrogatory answers, oral deposition or the production of a thing or writing, and the witness, located in New Jersey, will not voluntarily answer interrogatories, appear at an oral deposition or produce a thing or writing, the employment of the power of New Jersey's courts to aid foreign litigation may be requested. New Jersey's Court Rules provide a procedure to issue the necessary process through an *ex-parte* application.

A New Jersey-licensed attorney may apply to the Superior Court *ex parte* with a pleading designated "A Petition Pursuant to R. 4:11-4." The petition requests that the New Jersey Superior Court exercise its judicial power and issue the necessary process to effectuate the foreign court's decree concerning an out-of-state discovery. The New Jersey attorney will file the petition, a proposed form of order and the appropriate filing fee with the Superior Court Clerk. Although not explicitly addressed in the Court Rules, venue should be in the county where the witness resides or works. A Commission, Letters Rogatory or other similar judicial certificate issued in the forum state must support the petition.

This package provides information for an out-of-state attorney on New Jersey's procedure for directing a New Jersey resident to comply with discovery requests for use in litigation in another state.

Note: These materials have been prepared by the New Jersey Superior Court Clerk's Office and the Administrative Office of the Courts. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the forms will be available at the county courthouse or on the Judiciary's Internet site (www.njcourtsonline.com). However, you are ultimately responsible for the content of your court papers.

The numbered steps listed below outline the procedure for obtaining a subpoena to pursue discovery of a New Jersey resident for use by an out-of-state attorney in use in another jurisdiction.

STEP 1: REVIEW AND COMPLY WITH THE REQUIREMENTS OF THE FORUM STATE TO PURSUE DISCOVERY OUT-OF-STATE.

Obtain a Commission or Letters Rogatory under the seal of the appropriate court clerk or public official authorized in the forum state to issue such a document.

STEP 2: RETAIN A NEW JERSEY-LICENSED ATTORNEY TO PETITION THE SUPERIOR COURT OF NEW JERSEY FOR AN ORDER AUTHORIZING THE ISSUANCE OF A SUBPOENA COMMANDING THE NEW JERSEY RESIDENT TO ANSWER WRITTEN INTERROGATORIES OR TO APPEAR AT AND SUBMIT TO A DEPOSITION.

The New Jersey attorney will file with the Superior Court, Law Division in the county in which the witness resides, an ex parte petition (Form A), a proposed form of order (Form B), and a proposed subpoena. There is a \$30.00 fee which may be paid by money order or check made payable to "Treasurer, State of New Jersey."

STEP 3: UPON RECEIPT OF THE SIGNED ORDER AND SUBPOENA, HAVE THE NEW JERSEY ATTORNEY SERVE THE SUBPOENA OR NOTICE IN LIEU OF SUBPOENA.

If the witness resists the subpoena or fails to appear, then the New Jersey attorney may defend its issuance or apply to the court for appropriate sanctions, as the case may be.

Note: Out-of-state counsel should consult their state's court rules concerning the need to serve the out-of state witness with a notice of a deposition or a judicial subpoena from the forum state. If required, counsel should attach the same to the Commission, Letters Rogatory or other judicial certificate. The time, date and place of the deposition should be indicated in the petition. The location of the deposition must be in the county where the person to be deposed lives, works or does business.

Sample forms for the petition and order follow. **Note:** The New Jersey Administrative Office of the Courts has prepared these materials to give out-of-state attorneys insight into the New Jersey's procedure. Retained New Jersey counsel is ultimately responsible for the content of the pleadings filed and, therefore, New Jersey legal counsel must tailor any pleading to the facts, circumstances and New Jersey statutes and court rules then in effect.

REFERENCES:

Court Rule 1:5-6	Filing
Court Rule 1:9-1	Subpoenas; For Attendance of Witnesses; Forms; Issuance; Notice in Lieu of Subpoena
Court Rule 1:9-2	For Production of Documentary Evidence; Notice in Lieu of Subpoena
Court Rule 1:9-5	Failure to Appear
Court Rule 1:9-6	Enforcement of Subpoena of Public Officer or Agency
Court Rule 1:21-1	Who May Practice; Appearance in Court
Court Rule 4:11-4	Testimony for Use in Foreign Jurisdictions
Court Rule 4:12-1	Persons Who May Take Depositions; Within State
Court Rule 4:14-7	Subpoena for Taking Depositions
N.J.S.A. 22A:2-7	Law Division of Superior Court, Other Fees

FORM A

Superior Court Of New Jersey Law Division

Attorney Name

Attorney Street Address

Town, State, Zip Code

Attorney Telephone Number

County

Docket No. _____

CIVIL ACTION

I/M/O APPLICATION FOR THE
ISSUANCE OF A SUBPOENA TO

***EX-PARTE* PETITION FOR ISSUANCE OF SUBPOENA PURSUANT TO COURT *RULE* 4:11-4**

Petitioner, _____, applying for the authority to
issue a *Rule* 4:11-4 subpoena, hereby certifies and says:

1. I have been retained as local counsel by the firm of _____, in their
capacity as attorney for _____ in an action in the State of _____,
captioned _____, plaintiff(s), v. _____ defendant(s), bearing
docket number _____.

2. A Commission was issued out of the _____ Court of the State of _____,
authorizing the [*deposition on oral testimony*] [*deposition on written interrogatory*] [*a subpoena duces
tecum for the production of things or documents*] of _____, who lives, works or
does business at _____, in the City/Township/Borough of _____, County
of _____, and State of New Jersey. A copy of the Commission [Letters Rogatory] is
attached to this petition as Exhibit A.

3. I submit this petition in support of my application for an Order pursuant to *Rule* 4:11-4

FORM A

authorizing that a subpoena be issued to _____ at the aforementioned address requiring that he/she/it *[give his/her/its deposition on written interrogatory]* *[appear at _____ o'clock in the _____ noon on _____ (date) at the office of _____ located at _____, New Jersey for taking his/her/its deposition on oral testimony]* *[requiring that he/she/it produce the following things or documents]: _____*. The deposition on oral testimony shall continue from day to day until completed.

4. _____ *[out-of-state attorney]* has advised me of the following relevant facts:

a. On or about _____ a motion was made in the aforementioned litigation in the State of _____ for the appointment of a Commissioner in the State of New Jersey to cause service of a subpoena upon and *[for taking the deposition of _____ on oral testimony]* *[for taking the deposition of _____ by written interrogatory]* *[for the production of things or documents in the possession of _____]*.

b. On _____ the Honorable _____, Judge of the _____ Court, signed an Order directing the undersigned be appointed Commissioner of the above stated purpose. A copy of the Order is attached as Exhibit B.

c. The *[deposition on oral testimony]* *[deposition on written interrogatory]* *[the production of the thing or documents by]* of this witness is essential to this case because _____.

_____.

d. No previous application has been made for the relief herein requested.

FORM A

WHEREFORE, the petitioner respectfully requests that an Order be entered:

- a. authorizing the issuance of a subpoena, in aid of foreign litigation, directing
_____ *[to appear and give oral testimony] [give answers under oath to written interrogatories] [produce (here describe the things or documents)]* pursuant to the Commission issued by the State of _____; and
- b. authorizing the petitioner the right to *[adjourn, recess or reschedule the deposition on oral testimony] [extend the time for answering written interrogatories] [extend the time to produce things or documents]* by consent without any further application to this court.
- c. for such other relief as is just and proper.

Dated: _____

Signature

VERIFICATION

1. I am the petitioner in the within matter.
2. I have read the foregoing petition and on my own personal knowledge, except those facts related to me by out-of-state counsel, I know that the facts therein are true.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

Signature

BEFORE FILING, BE SURE TO REMOVE THIS SENTENCE FROM THE DOCUMENT AS WELL AS THE DESCRIPTIVE INTRUCTIONS INCLUDED IN BRACKETS.

FORM B

Superior Court Of New Jersey Law Division

Attorney Name

Attorney Street Address

Town, State, Zip Code

Attorney Telephone Number

County

Docket No. _____

CIVIL ACTION

ORDER PURSUANT TO COURT RULE 4:11-4

I/M/O APPLICATION FOR THE ISSUANCE OF A SUBPOENA TO

This matter having come before the Court on the application of _____ for an Order authorizing the issuance of a subpoena to _____, and it appearing that the _____ Court of the State of _____ has issued a Commission [Letters Rogatory] in a pending case captioned _____, plaintiff(s), v. _____, defendant(s), docket/case number _____, authorizing _____ to *[take the deposition on oral testimony] [take the deposition on written interrogatory] [issue a subpoena duces tecum for the production of things or documents]* of _____ who lives, resides or does business in the City/Township/Borough of _____, New Jersey, and it further appearing that good cause exists.

IT IS on this _____ day of _____, 20____, ORDERED that a subpoena may issue commanding _____ to appear before _____ on (date) _____, 20____, at _____ o'clock in the _____ noon at the office of _____, located at _____, to *[give oral testimony under oath] [provide answers under oath to written interrogatories] [produce things or documents]* in the above captioned matter; and it is further ORDERED that the petitioner may *[adjourn and reschedule the time, date and place of the deposition by oral testimony] [extend the time for answering written interrogatories] [extent the time to produce things or documents]* by consent without any further application to this court.

J.S.C.

BEFORE FILLING, BE SURE TO REMOVE THIS SENTENCE FROM THE DOCUMENT AS WELL AS THE DESCRIPTIVE INSTRUCTIONS INCLUDED IN BRACKETS.

MASS TORT GUIDELINES

Procedure for Requesting Designation of a Case as a Mass Tort for Centralized Management

The Assignment Judge of any vicinage or an attorney involved in a case or cases that may constitute a mass tort may apply to the Supreme Court, through the Administrative Director of the Courts, to have the case(s) classified as a mass tort, and assigned to a designated judge for centralized management. The Assignment Judge or attorney making such an application must give notice to all parties then involved in the case(s), advising that the application has been made and that a Notice to the Bar will appear in the legal newspapers and in the Mass Tort Information Center on the Judiciary's Internet website providing information on where and within what time period comments on and objections to the application may be made.

The Administrative Director of the Courts will present the application, along with a compilation of any comments and objections received, to the Supreme Court for its review and determination.

If the Supreme Court determines that the case(s) should be classified as a mass tort and assigned to a designated judge for centralized management and, in that judge's discretion, trial, an appropriate Order will be entered. The Order will be sent to all Assignment Judges and Civil Presiding Judges, will be published in the legal newspapers, and will be posted in the Mass Tort Information Center on the Judiciary's Internet website.

Criteria to be Applied in Determining Whether Designation as a Mass Tort is Warranted

In determining whether designation as a mass tort is warranted, the following factors, among others, will be considered:

- whether the case(s) possess(es) the following characteristics:
 - it involves large numbers of parties;
 - it involves many claims with common, recurrent issues of law and fact that are associated with a single product, mass disaster, or complex environmental or toxic tort;
 - there is geographical dispersement of parties;
 - there is a high degree of commonality of injury or damages among plaintiffs;

- there is a value interdependence between different claims, that is, the perceived strength or weakness of the causation and liability aspects of the case(s) are often dependent upon the success or failure of similar lawsuits in other jurisdictions; and
- there is a degree of remoteness between the court and actual decision-makers in the litigation, that is, even the simplest of decisions may be required to pass through layers of local, regional, national, general and house counsel.
- whether there is a risk that centralization may unreasonably delay the progress, increase the expense, or complicate the processing of any action, or otherwise prejudice a party;
- whether centralized management is fair and convenient to the parties, witnesses and counsel;
- whether there is a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion;
- whether coordinated discovery would be advantageous;
- whether the cases require specialized expertise and case processing as provided by the dedicated mass tort judge and staff;
- whether centralization would result in the efficient utilization of judicial resources and the facilities and personnel of the court;
- whether issues of insurance, limits on assets and potential bankruptcy can be best addressed in coordinated proceedings; and
- whether there are related matters pending in Federal court or in other state courts that require coordination with a single New Jersey judge.

Choice of Site for Centralized Management

Issues of fairness, geographical location of parties and attorneys, and the existing civil and mass tort caseload in the vicinage will be considered in determining to which vicinage a particular mass tort will be assigned for centralized management. This decision will be made by the Supreme Court.

Subsequent Related Actions

The initial Order of the Supreme Court denominating a particular category of cases as a mass tort and referring those cases to a particular county for centralized management may specify that subsequent related actions are to be transferred from the counties in which they are filed to the designated mass tort county and judge without further application to the Supreme Court.

Severance

The mass tort judge may thereafter review the cases designated as a mass tort and assigned for centralized management, and may sever and return to the original county(ies) of venue any that no longer warrant centralization.

Termination of Centralized Management

When the mass tort judge determines that centralized management is no longer necessary or appropriate under the circumstances, he or she will send a written report to the Administrative Director, with copies to the Assignment Judge, Civil Presiding Judge, Trial Court Administrator and Civil Division Manager of his or her vicinage. The report shall provide details of matters resolved as well as the particulars concerning any unresolved matters being returned to their original county(ies) of venue. This report will be presented to the Supreme Court for review.

vs. Plaintiff
 Defendant

Superior Court of New Jersey
Venue
Docket Number

Person to be served (Name & Address):

AFFIDAVIT OF SERVICE
(For Use by Private Service)

Attorney:

Cost of Service pursuant to R. 4:4-3(c)

\$ _____

Papers Served:

Service Data:

Served Successfully _____

Not Served _____

Date: _____ Time: _____

Attempts: _____

_____ Delivered a copy to him / her personally

Name of Person Served and relationship / title:

_____ Left a copy with a competent household
member over 14 years of age residing
therein (indicate name & relationship at right)

_____ Left a copy with a person authorized to
accept service, e.g., managing agent,
registered agent, etc.
(Indicate name & official title at right)

Description of Person Accepting Service:

Sex: _____ Age: _____ Height: _____ Weight: _____ Skin Color: _____ Hair Color: _____

Unserved:

() Defendant is unknown at the address furnished by the attorney

() All reasonable inquiries suggest defendant moved to an undetermined address

() No such street in municipality

() No response on: _____ Date _____ Time _____

_____ Date _____ Time _____

() Other: _____ Comments or Remarks _____

Server Data:

Subscribed and Sworn to me this
_____ day of _____

I, <Name of Server>, was at the time of service a
competent adult not having a direct interest in the
litigation. I declare under penalty of perjury that
the foregoing is true and correct.

Notary Signature

Name of Notary / commission expiration

Signature of Process Server

Date

<Insert Private Server's name, address and telephone number.>

Prepared and filed by the court

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION**

PLAINTIFF

v.

DEFENDANT

County

Docket Number _____
(to be filled in by the court)

**ORDER EXTENDING DISCOVERY
FOR JOINDER OF NEW PARTY AND
SETTING NEW DISCOVERY END
DATE PURSUANT TO R. 4:24-1(b)**

This matter comes before the court for an extension of discovery due to the joinder of
_____. It is on this _____ day of _____, _____.

- a) the time for the completion of discovery is hereby extended for a period of _____ days,
- b) the new discovery end date is _____, 20____,
- c) the new Arbitration date is _____, 20____,
- d) counsel serve a copy of all discovery materials upon or otherwise make them available to such new party within 20 days of the service of the new party's initial pleading.

A copy of this order has been given/sent to _____ and that party/attorney is **FURTHER ORDERED** to serve a copy of this order on all parties within 7 days of the date hereof.

J.S.C.

* party/parties requesting discovery extension: _____

Team Leader: _____

**APPLICATION PROCEDURE FOR OBTAINING A STAY OF ALL
PROCEEDINGS PENDING IN THE NEW JERSEY COURTS INVOLVING
AN INSOLVENT INSURER
PURSUANT TO *N.J.S.A. 17:30A-18***

The following sets forth the procedures for obtaining a statewide stay of all litigated matters involving an insolvent insurer. These procedures are applicable to matters involving the New Jersey Property-Liability Insurance Guaranty Association (“NJPLIGA”) and the New Jersey Surplus Lines Insurance Guaranty Fund (“NJSLIGF”). For ease of reference, these procedures will refer only to NJPLIGA.

1. Upon notification that an insurer licensed or authorized to do business in the State of New Jersey has been declared insolvent by a court of competent jurisdiction pursuant to *N.J.S.A. 17:30A-5*, NJPLIGA shall, by counsel, apply for a stay of all proceedings pending in the courts of New Jersey in which that insurer is a party or is obligated to defend a party. Such application shall be filed in the Superior Court of New Jersey, Chancery Division, General Equity Part, Mercer County.
2. This application shall be made by verified complaint, affidavit and order to show cause with temporary restraints.
3. The verified complaint and affidavit of a representative of NJPLIGA shall set forth the facts of the insolvency entitling NJPLIGA to the relief provided by *N.J.S.A. 17:30A-18*. A copy of the liquidation order will be supplied with the verified complaint and affidavit.
4. The proposed order to show cause with temporary restraints will provide as follows:
 - (a) A return date, set by the court, on which all interested parties may appear before the court to be heard on whether, pursuant to *N.J.S.A. 17:30A-18*, the court should enter an order staying all proceedings in which the insolvent insurer is a party or is obligated to defend a party for a period of 120 days, effective upon the date of the order of liquidation;
 - (b) A date by which all interested parties should file briefs with the court on the issue of the stay, with copies to be supplied to counsel for NJPLIGA;
 - (c) Staying, effective immediately upon the entry of the order to show cause, all proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in the state until the return date of the order to show cause;
 - (d) Directing NJPLIGA to supply to the AOC’s Civil Practice Division, as soon as reasonably possible, a list setting forth the names of the cases which will be subject to the order, identifying the insured of the insolvent insurer in each case and, when available, the docket numbers including county designations;

- (e) Directing that a copy of the verified complaint, affidavit and order to show cause with temporary restraints be served upon the insolvent insurer and/or its liquidator;
 - (f) Directing NJPLIGA to arrange for publication of the order to show cause with temporary restraints in the New Jersey Law Journal and the newspapers in which the insolvency notices were published; and
 - (g) Directing NJPLIGA to serve a copy of the executed order to show cause with temporary restraints upon the Civil Presiding Judge and Civil Division Manager of each vicinage in the state, and to provide a copy to the AOC's Civil Practice Division.
5. The verified complaint, affidavit and order to show cause shall be filed in the Superior Court of New Jersey, Chancery Division, General Equity Part, Mercer County.
 6. Upon receipt of the executed order to show cause with temporary restraints, NJPLIGA will post a copy of the order and a copy of the liquidation order on its website.
 7. During the period between the execution of the order to show cause with temporary restraints and the return date, NJPLIGA will consider, in good faith, those responses objecting to the entry of the stay or requesting relief from the stay. If agreement can be reached with the parties requesting such relief, a consent order will be submitted to the court, bearing the docket number assigned to the verified complaint, setting forth the agreed upon relief and identifying the subject case by name and docket number.
 8. Affidavits of publication will be supplied to the court upon receipt and in advance of the return date of the order to show cause with temporary restraints.
 9. Counsel for NJPLIGA shall appear on the return date of the order to show cause. NJPLIGA will have available, by telephone, a representative with authority to consider requests for relief from the stay or extend such authority to counsel.
 10. If the court is satisfied that the facts support NJPLIGA's request for the relief provided in *N.J.S.A. 17:30A-18*, the court will recite those findings for the record and direct counsel for NJPLIGA to submit an order for execution by the court providing as follows:
 - (a) Staying all proceedings pending in the State of New Jersey in which the insolvent insurer is a party or is obligated to defend a party for a period of up to 120 days effective upon the date the order of liquidation was entered;
 - (b) Directing that any subsequent application for relief from the initial stay shall be brought in the Superior Court, Chancery Division, General Equity Part, Mercer County by formal motion on notice to all interested parties, including NJPLIGA;
 - (c) Directing that a request for a further stay of any such proceeding beyond the statutory 120 days shall be made by motion, on notice to all parties to such proceeding, filed in the county in which that proceeding is pending, which motion will be decided by the

Civil Presiding Judge of the vicinage in which the motion is filed or that judge designated by the Civil Presiding Judge to decide such motions;

- (d) Directing that the order shall be served upon the Civil Presiding Judge and civil division manager of each vicinage in the state; and
 - (e) Directing that the order shall be published in the New Jersey Law Journal and the newspapers in which the insolvency notices were published.
11. NJPLIGA will post the order granting the stay on its website.
 12. During the pendancy of the initial 120-day stay, NJPLIGA will, in good faith, consider informal requests for relief from the stay made by interested parties. If agreement cannot be reached, said parties may apply to the Superior Court, Chancery Division, General Equity Part for relief as provided above.
 13. Nothing in these procedures precludes NJPLIGA from exempting a particular case or category of cases from its stay application.

Approved at the 6/10/2003 meeting of the Conference of Civil Presiding Judges; item 10 amended at the 9/30/2003 meeting of the Conference.

Writs for the production of state adult inmates and juveniles

Directive #1-04
(supersedes #6-00)
Issued by:

March 9, 2004
Richard J. Williams
Administrative Director

This Directive supersedes Directive #6-00, "Writs for Production of State Inmates," (dated October 2, 2000). Set forth herein are procedures to govern the standard writ process used for the production of state inmates housed in state correctional facilities, juveniles under the care of the Juvenile Justice Commission, and civilly committed sexually violent predators. In addition to the procedures permitted under the prior directive, included herein also are the procedures for issuing automated writs for Criminal and Family court appearances.

This Directive and the procedures set forth herein become effective immediately. As with the prior directive, use of these writs does not apply to state inmates housed in county jails.

I. Procedure to Issue a Standard Written Writ with an Original Signature.

A. When issuing a standardized writ for a state inmate or a civilly committed sexually violent predator to be produced at a Civil and Municipal Court appearance, the writ must bear an original signature and be sent to:

Assistant Commissioner
Division of Operations
c/o Central Transportation
New Jersey Department of Corrections
P.O. Box 863, Stokes Building, Room 108
Trenton, New Jersey 08625

B. When issuing a standardized writ for a juvenile to be produced at a Criminal, Family, Civil or Municipal Court appearance, the writ must bear an original signature and be sent to the appropriate institution:

New Jersey Training School
P.O. Box 500
Jamesburg, N.J. 08331
(732) 521-0030

or

Juvenile Medium Security Facility
P.O. Box 307
Bordentown, N.J. 08505
(609) 298-8222

II. Standardized Written Writ Requirements

Standardized writs must be received by the Department of Corrections and juvenile facilities no later than 48 business hours prior to the scheduled transportation date for the court event.

As a general rule, faxed writs are not acceptable because of security considerations. In extraordinary situations, emergent writs for inmates or juveniles may be arranged by the court with the Department of Corrections Central Transportation Unit or Juvenile Justice Commission Central Intake Unit. An emergent request requires verbal confirmation from the respective unit identified above. Without the confirmation, the writ may not be received in sufficient time for processing.

Please take steps to ensure that an exact copy of the attached form of writ is used. The Department of Corrections and Juvenile Justice Commission will not accept writs that deviate from the language of the standardized form. They will however allow computer-generated versions of the writ under the following circumstances:

1. A sample of the exact form of your computer-generated version is on file at the Department of Corrections Central Transportation Unit and/or Juvenile Justice Commission Central Intake Unit; and
2. The language and information contained in your computer-generated version are exactly the same as in the standardized writ.

III. Procedure to Issue an Automated Writ

The automated writ is to be used to produce an adult state inmate or civilly committed sexually violent predator for a Criminal or Family Court appearance. Use of this writ does not apply to state inmates housed in county jails.

By order of the Supreme Court dated April 30, 2002 (copy attached), the Superior Court is permitted to issue and transmit to the Department of Corrections electronic Orders to Produce. The orders or writs are permitted to contain an electronically affixed signature of the Superior Court judge, rather than an original signature. This automated procedure provides an electronic alternative to the process where the standardized writ form bearing an original signature is mailed to the Department of Corrections Central Transportation Unit. Pursuant to the Court's April 30, 2002 order, the electronic process carries the same authority as a manually prepared writ with the judge's signature.

Use of the automated writ is currently only available to the Criminal and Family Divisions. Manually prepared writs for inmates will no longer be accepted from those

Divisions using the automated writ. The automated writ will be sent electronically through the computer network to Central Transportation at the Department of Corrections. Each week judiciary supervisory personnel in Divisions utilizing the automated writ will review an on-line list of writs requested to ensure accuracy and proper authorization.

Electronic writs must be received by the Department of Corrections no later than 48 business hours prior to the scheduled transportation date for the court event. In extraordinary situations, emergent writs for inmates may be arranged by the court with the Department of Corrections Central Transportation Unit. Emergent writs require verbal confirmation from Central Transportation. Without confirmation, writs may not be received in sufficient time for processing.

Cancellation of writs will be accepted on-line as long as the cancellation occurs at least three business days prior to the scheduled appearance date. If a cancellation is made less than three days prior to the appearance date, both a confirming phone call to the Department of Corrections and cancellation via the on-line screen are required.

When an inmate is produced for a court event as a result of an automated writ, the judge must sign the copy presented at the court hearing. This signature at the bottom of the writ authorizes the remand or release of the defendant following the hearing. In addition, the results of the hearing must be noted on the writ or attached to the copy of the writ returned with the inmate to the Department of Corrections.

Any questions regarding this Directive or the procedure set forth herein should be directed to the AOC's Criminal Practice Division at (609) 292-3593.

Any questions regarding this Directive or the procedure set forth herein should be directed to the AOC's Criminal Practice Division at (609) 292-3593.

R.J.W.

/jjw
Attachments

cc.: Chief Justice Deborah T. Poritz
Commissioner Devon Brown, Dept. of Corrections
Howard Beyer, Director, Juvenile Justice Commission
Civil Presiding Judges
Criminal Presiding Judges
Family Presiding Judges
Municipal Presiding Judges
Theodore J. Fetter, Deputy Admin. Dir.
John P. McCarthy, Jr., Director
Joseph J. Barraco, Assistant Director
Harry T. Cassidy, Assistant Director
Jane F. Castner, Assistant Director
Robert W. Smith, Assistant Director
Trial Court Administrators
Civil Division Managers
Criminal Division Managers
Family Division Managers
Municipal Division Managers
James Mannion, Chief
John J. Wieck, Chief
Mary Ann Byrne, Asst. Chief
Francis W. Hoeber, Special Asst.
Steven D. Bonville, Special Asst.

Superior Court of New Jersey

Order to Produce

COUNTY OF _____

DIVISION

☐ Criminal ☐ Family
☐ Probation ☐ Municipal ☐ Civil

IND. NO.

ACC. NO.

PROS. NO.

COMP. NO.

PURPOSE

S.B.I.

D.O.B.

S.S.#

RACE

INST.#

STATE OF NEW JERSEY

VS

DEFENDANT

a/k/a

TO:

You are hereby commanded to produce the body of _____

now confined in the _____, New Jersey, under your

custody, before the Honorable _____, Judge of the

_____ Court in and for the ☐ City ☐ Township ☐ County of
(Superior or Municipal)

_____, at _____, New Jersey on

(Day) _____, the _____ of _____, 19 ____

at _____ (A.M./P.M.) o'clock.

☐ This is a confirming order that has been preceded by an authorized ☐ e-mail or ☐ fax
transmittal sent on _____, 19 ____ by _____.

Comments:

J.S.C.

Requested by: _____ Telephone Number: _____

WARRANT OF REMAND or RELEASE AFTER HEARING

It is on this _____ day of _____, 19 ____ ORDERED as follows:

☐ To be produced before the court on _____, 19 ____ at ____ AM / PM.

☐ Remanded to _____

☐ Sentence, or ☐ additional sentence disposition of the court:

J.S.C.

SUPREME COURT OF NEW JERSEY

It is ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that effective immediately and until further order the provisions of Rule 3:1-4 of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to permit the Superior Court to issue and transmit to the Department of Corrections electronic Orders to Produce inmates for court proceedings with those orders or writs containing an electronically affixed signature of a Superior Court judge rather than an original signature and having the same authority as such orders to produce containing a judge's original signature.

For the Court,

/s/ Deborah T. Poritz

Chief Justice

Dated: April 30, 2002

N.J.A.C. 10a:3-9.13

NEW JERSEY ADMINISTRATIVE CODE TITLE 10A. DEPARTMENT OF CORRECTIONS CHAPTER 3. SECURITY AND CONTROL SUBCHAPTER 9. TRANSPORTATION OF INMATES

Current through August 2, 2004; 36 N.J. Reg. No. 15

10A:3-9.13 Transportation costs in a civil action

(a) The costs of transporting an inmate to court for civil action will be paid by the Department of Corrections when:

1. The cause of action is related to the inmate's confinement;
2. The cause of action is a Family Court matter such as, but not limited to, matrimonial and child custody; or
3. The inmate is a defendant and the plaintiff is a governmental entity.

(b) The cost of transporting an inmate to court for a civil action other than those listed in (a) above shall be paid in advance of the transportation by:

1. The inmate;
2. The inmate's attorney or representative; and/or
3. The person bringing the civil action against the inmate or that person's representative.

(c) The correctional facility Business Office shall prepare a detailed written statement of expenses using the following criteria to determine the cost of transportation due:

1. The number of custody staff members and/or supervisor required for the inmate's custody classification handled in accordance with this subchapter;
2. The fee per custody staff member/supervisor which is the maximum salary of each representative title at time and a half;
3. The State vehicle mileage cost which is established by the Director, Division of Budget and Accounting, Department of Treasury. The overall State vehicle cost shall be based on the mileage rate times the sum of the number of miles to and from the destination;
4. The cost of meals;
 - i. The projected number of meals for inmates and custody staff members which shall be established in accordance with the State of New Jersey Travel Regulations, Department of Treasury.
 - ii. The fee charged for each meal (breakfast, lunch and/or dinner) which shall be based on the rate in the current State of New Jersey Travel Regulations, Department of Treasury.
 - iii. The cost of meals which shall be the projected number of meals times the per meal fee established by the State of New Jersey Travel Regulations, Department of Treasury; and
5. All tolls and parking expenses.

(d) The total costs of transporting an inmate to court for civil actions must be received in the form of a certified check made payable to the "Treasurer, State of New Jersey" and submitted for processing to the correctional facility Business Office.

New Rule, R.1996 d.62, effective February 5, 1996.

See: 27 N.J.R. 3273(a), 28 N.J.R. 853(a).

Amended by R.2002 d.171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

In (c)1, 2 and 4i, substituted references to custody staff members for references to correction officers.

<General Materials (GM) - References, Annotations, or Tables>

CASE NOTES

Regulation adopted to regulate transportation in civil cases permits production at the expense of inmates, their representatives, or plaintiffs in proceedings where the State does not underwrite the expense. *Beneficial of New Jersey v. Bullock*, 293 N.J.Super. 109, 679 A.2d 723 (1996).

VOLUNTARY BINDING ARBITRATION PROGRAM APPLICATION

County

Case Caption: vs.

Docket No: Type of case:

Attorneys:
Plaintiff: Phone:

Defendant: Phone:

Other: Phone:

Panel selected to decide case:

Plaintiff: Phone:

Defendant: Phone:

Estimated time to present the case: hours

Issue(s) to be submitted for decision:

Have you agreed on a high/low range? Yes No

If so, state: the high limit \$ the low limit \$

Is the panel to be advised of the high/low limits? Yes No

Is testimony to be presented? Yes No

Will cross examination be permitted? Yes No

Will prejudgment interest be calculated on the award? Yes No

State any stipulations of facts or other agreements on attached sheet.

Date of Application:

We agree to submit the foregoing case to a binding, non-appealable decision by the above named panel and have the authorization of our clients to do so. We hereby certify that all discovery is complete and this matter is ready to be submitted to arbitration. Attached is a consent order of dismissal with prejudice.

Attorney for plaintiff:

Attorney for defendant(s):

(submit completed form to the arbitration administrator and a hearing will be scheduled)

BINDING ARBITRATION PROGRAM CONSENT FORM

COUNTY

CAPTION OF THE CASE:

V.

DOCKET NO:

1. I acknowledge receipt of a copy of the Voluntary Binding Arbitration Program Guidelines which I have read and understand.
2. I consent to having the above captioned case submitted to the panel of and I agree to accept and to be bound irrevocably by the panel's decision.
3. I understand that the panel's decision is binding and that my case is being dismissed with prejudice as soon as I execute this form.
4. I understand that I waive my rights to trial by jury and to all appeals.
5. Check one:

I understand that the award of the panel will not be less than
\$ nor more than \$ without interest.

I understand that there is no "high/low" range and that the award, if any, is in the panel's sole discretion, without interest, unless agreed to in the application and includes the possibility of "no cause for action".

Dated:

Plaintiff's Attorney

Plaintiff

Defendant's Attorney

Defendant

**VOLUNTARY BINDING ARBITRATION
LITIGANT EVALUATION FORM**

COUNTY

(Please Check One) Case Type:

Lemon Law

Verbal Threshold

Other – Specify

1. Are you the Plaintiff or Defendant

2. Have you ever participated in an arbitration process before?

Yes No

3. Were you satisfied with your opportunity to present your case?

Yes No

If not, please explain

4. Do you think the hearing was conducted fairly and impartially?

Yes No

If not, please explain

5. Was the decision acceptable to you?

Yes No

If not, please explain

6. Would you use the Voluntary Binding Arbitration forum again? Yes No
7. Did your participation in this program save time? Yes No
8. Did your participation in this program to save money? Yes No
9. Did you previously participate in another dispute resolution process? Yes No
- If yes, please indicate the type. Arbitration Mediation
Other - please specify
10. Do you have suggestions for the improvement of this program?

VOLUNTARY BINDING ARBITRATION ATTORNEY EVALUATION FORM COUNTY

(Please Check One) Case Type: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> Lemon Law Verbal Threshold Other – Specify </div>
--

1. Which party did you represent?

Plaintiff

Defendant

2. Panel's decision:

(a) Liability

(b) Damages

3. Indicate your level of satisfaction with the following features of the program.

	Very Satisfied	Satisfied	Somewhat Satisfied	Very Dissatisfied	Dissatisfied	Somewhat Dissatisfied
Panel's knowledge of relevant law						
Rules and procedures						
Parties' rights preserved						
Fairness of hearing						
Level of participation						
Opportunity to present case						
Neutrality of panel						
Panel's consideration of evidence						
Panel's understanding of issues						
Length of hearing						
Panel's decision						
Client's reaction						
Timeliness of scheduling						

4. Would you use the Voluntary Binding Arbitration forum for other cases? Yes No
5. Did participation in this program save time? Yes No
6. Did participation in this program to save money? Yes No
7. Did this case previously participate in another dispute resolution process? Yes No
- If yes, please indicate the type. Arbitration Mediation
Other (please specify)
8. Do you have suggestions for the improvement of this program?

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION**

PLAINTIFF

v.

DEFENDANT

County

Docket Number _____
(to be filled in by the court)

CIVIL ACTION

**ORDER FOR SUMMARY JURY
TRIAL**

This matter having been reviewed by the court at a Summary Jury Trial Prehearing Conference and the court having determined that this matter appropriate for submission to a Summary Jury Trial and; Counsel having voluntarily agreed to participate in this procedure:

IT IS THEREFORE ORDERED that a Summary Jury Trial be held on _____, 20__ at _____. In the event this matter does not settle as a result of this Summary Jury Trial, a full trial will commence on _____, 20__ at _____. This date shall be considered a firm and preemptory trial date.

IT IS FURTHER ORDERED that the parties will be bound by the Rules of Procedure for Summary Jury Trial except, or in addition to, the following stipulations:

A. Time for opening and closing arguments;

Plaintiff _____, Defendant_____.

B. Proposed jury charge will be as follows:

C. List of witnesses to be introduced by reference:

D. List of all physical exhibits, documents and expert reports to be introduced:

E. Any special problems or considerations pertaining to this Summary Jury Trial:

J.S.C.

The parties do hereby consent
to the entry of this order:

EXPEDITED JURY TRIAL FORM

SUPERIOR COURT OF NEW JERSEY LAW DIVISION

PLAINTIFF

v.

DEFENDANT

County

Docket Number _____

(to be filled in by the court)

CONSENT ORDER FOR EXPEDITED JURY TRIAL

1. This Order is entered pursuant to Rule 1:1-2 and Evidence Rules 101(a)(4) and 102.
2. The parties request that the Court conduct a binding Expedited Jury Trial to resolve this case. Counsel voluntarily agree to follow the rules and procedures set forth in this Order and represent that their client(s) consent to same.
3. The jury shall consist of six persons with no alternates. Each party will be permitted three peremptory challenges. The parties stipulate that if one juror is excused, the trial shall proceed and a verdict may be rendered by 5 of the jury agreeing.
4. **EVIDENCE:** Each party may call one lay witness for live testimony. A videotape deposition is considered to be live testimony. In addition, counsel may read, show or present to the jury such of the following materials as are marked as exhibits in evidence before the trial begins: any materials obtained or produced in discovery including but not limited to depositions, answers to interrogatories, documents, admissions, expert reports, statements, medical and hospital records, police reports, business records, "writings" (Rule 801e), "photographs" (Rule 1001b), diagrams, and other materials. Documents and materials not produced in discovery may be admitted in evidence by consent. The

evidence will include definitions and diagrams of medical and other specialized terms and procedures of which judicial justice is taken.

5. **OBJECTIONS:** The parties stipulate to: (1) the authenticity of all documents, writings, and photographs; (2) the admission of all business records, expert reports and written statements of persons not giving live testimony, subject to redaction of inadmissible included statements; and (3) the reasonableness and necessity of charges in bills and invoices for services, treatments, therapies, prescriptions, goods, materials and supplies. The following types of objections to deposition testimony are waived: leading, asked and answered, narrative answer, answer not responsive, cumulative, over broad, argumentative, self-serving, and compound question. Before the trial begins, the Court will rule on the following types of objections to the materials listed in paragraph 4: relevance, undue prejudice, misleading, speculative, assuming facts not in evidence, misquoting the evidence or the witness, inadmissible opinion or conclusion, privilege, competence of declarant, and noncompliance with discovery rules or orders; and appropriate redactions will be made. All arguments and rulings shall be placed on the record and preserved for appeal. Except for highly prejudicial evidence inadvertently overlooked, none of these types of objections may be made after the trial begins. Counsel may object at trial to any misreading or mischaracterization of the evidence or improper argument by counsel.
6. Subject to modification at the court's discretion, each attorney shall have a maximum of 15 minutes for opening statements and 30 minutes for summations.
7. Requests to Charge may be submitted only on issues not covered by the Model Civil Jury Charges.
8. Judgment will be entered upon the jury's verdict.

9. The following is also stipulated or ordered:

IT IS SO ORDERED: Date: _____, _____
J.S.C.

We hereby consent to entry of this Order and certify that our clients agree to its provisions:

Attorney for Plaintiff(s)

Attorney for Defendant(s)

Directive #3-04

Questions or comments may be
directed to (609) 984-3150
or (609) 984-5024

To: Assignment Judges

From: Richard J. Williams

Subject: Interpreting Standards

Date: March 22, 2004

On February 26, 2004, the Judicial Council approved the attached Standards for Delivering Interpreting Services in the New Jersey Judiciary. For the most part, the Interpreting Standards incorporate practices presently in use in most of the Vicinages.

The Standards are grounded in four basic tenets: (1) that people who are limited in their ability to speak and understand English or who are deaf or hard of hearing should have the same access to the courts as those who are neither; (2) that only qualified interpreters may ordinarily interpret; (3) that all costs for interpreting are to be borne by the Judiciary except in very limited instances; and (4) that team interpreting should be used for events of more than two hours. The Standards address as well the use of deaf jurors and also incorporate by reference the previously issued Operational Standards for Telephone Interpreting (which were promulgated by Directive #14-01).

As noted, for the most part the Standards formalize existing practice. In a few Vicinages, some changes will be required, particularly in the areas of team interpreting (using two interpreters for proceedings of more than two hours) and proceedings interpreting (providing an interpreter in non-criminal as well as criminal cases to sit with a party at counsel table and interpret what is being said in the courtroom). Therefore, some Vicinages will already be operating under these Standards, while others may have to develop an implementation plan.

I would ask that by May 1, 2004, you advise me in writing whether your Vicinage is in compliance with the Interpreting Standards. If not, please identify

the elements with which the Vicinage is not in compliance and provide a plan for implementation, including the date by which the Vicinage will be in compliance with every Standard.

Thank you for your efforts on implementing this program and your continued support of the Judiciary's standardization efforts. Any questions or comments about the Interpreting Standards may be directed to Patricia Shukis Fraser, Assistant Director, Programs and Procedures, at (609) 984-3150 or Robert Joe Lee, Language Services Section, at (609) 985-5024.

R.J.W.

attachment

cc: Chief Justice Deborah T. Poritz
Hon. Joseph B. Small, Tax Court Presiding Judge
Presiding Judges (Civil, Criminal, Family, General Equity)
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Donald F. Phelan, Superior Court Clerk
Diane L. Ailey, Tax Court Administrator/Clerk
Vicinage Division Managers (all Divisions)
Marilyn C. Slivka, Manager, Special Programs
Robert Joe Lee, Language Services Section
Vicinage Coordinators of Interpreting Services
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Standards for Delivering Interpreting Services In the New Jersey Judiciary¹

Preface:

New Jersey is a rich tapestry of languages and cultural backgrounds that makes it one of the most linguistically and ethnically diverse states in the nation. With approximately one in four residents over the age of five speaking a language other than English at home and almost three-quarters of a million residents being either deaf or hard of hearing, the demand on the judiciary to meet the linguistic needs of all court users adequately is great and still growing. Yet meet the needs it must, for one fundamental precept of our justice system is that no person be denied access to the courts because of ethnicity or physical impairment. These standards set clear direction to judiciary staff for the delivery of interpreting services to the many state trial court users who have no, or limited, proficiency in understanding or speaking English, whether that lack of proficiency stems from having a different mother tongue or a hearing loss.

The standards govern cases in Superior Court and Tax Court, although they may be adapted to all courts. Justice should not be compromised because someone is unable to speak or understand English.

¹ Approved by the Judicial Council on February 26, 2004 and promulgated per Directive #3-04 on March 22, 2004.

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SECTION 1.
INTERPRETING FOR PERSONS WITH LIMITED PROFICIENCY IN ENGLISH
OTHER THAN THOSE WHO ARE DEAF OR HARD OF HEARING

Standard 1.1. Access to the courts.

All people, including persons with limited proficiency in English, should have equal access to court proceedings, programs and services.

Comment:

An interpreter should ordinarily be presumed necessary for any person covered by Standard 1.2 when either that person or that person's attorney represents that such person is unable to understand or communicate readily in the English language. That presumption, however, may be rebutted by a showing of substantial evidence to the contrary made to the presiding judge of the appropriate division or that judge's designee. As a practical matter, requests for interpreting services are denied infrequently.

Standard 1.2. Who should be assigned an interpreter.

The judiciary should generally assign interpreters to interpret all phases of court-connected proceedings for any person with limited proficiency in English who is a named party in the proceeding or who, in Family Part, is a parent or guardian of a juvenile who is a named party, as well as for witnesses during their testimony. Such phases include, most critically, those proceedings for which a transcript may be made, but also, when necessary, court-ordered arbitration and mediation and delivery of services involving court personnel, particularly in criminal and quasi-criminal cases. Interpreters should be provided whenever a failure of communication may have significant negative repercussions.

Comment:

A basic tenet of justice is equal access. There can be no equal access if the ability to comprehend is compromised by language barriers. At any proceeding on the record before a judge or hearing officer, interpreters must be used if a language barrier exists. This ensures a consistent and high level of interpretation services for the most critical phases of a case.

In instances in which certain direct services are rendered by paid or volunteer staff, qualified bilingual staff, if available, should provide the service in lieu of an interpreter. If no qualified bilingual staff is available, an interpreter should be assigned. In appropriate cases, telephone interpreting may also be a logical, cost-effective, and efficient alternative. (See Standard 1.6.) Examples of such direct services are mediations, arbitrations, first contacts with probationers, Child Placement Review Boards, Juvenile Conference Committees, and contacts that could result in a violation of probation. In general, the services rendered are those in which a failure of communication may have significant negative repercussions.

In direct service situations that are less likely to have significant negative repercussions in a case (like routine probation reporting and intake at Civil Division counters), the convening authority should weigh the equities in deciding whether, in the absence of qualified bilingual staff, a court-assigned interpreter is required or whether adult family or friends of parties may instead be used. (Using minors to communicate with limited-English proficiency adults is fraught with obvious perils and should be avoided except to gather ancillary or basic information, like addresses and phone numbers. Juveniles should not be used for substantive matters that would put undue pressure on them to secure a “favorable” outcome for their parents.)

In the absence of qualified bilingual staff, the nature of the particular direct service event is crucial to determining whether to assign an interpreter. Doubts should always be resolved in favor of assigning an interpreter, even if doing so requires rescheduling the event. The ideal of justice dictates that, as resources become available, all direct service rendered to limited-English proficient persons should be provided either by qualified bilingual staff or with the assistance of a court-assigned interpreter.

This standard implicitly excludes provision of court-assigned interpreters for depositions and private alternative dispute resolution and, more generally, for contacts between the party needing an interpreter and a person who is not connected with the judiciary, except as these standards may otherwise provide.

The judiciary will provide and bear the costs of interpreting services in contested probate matters handled in the Superior Court. It may also provide interpreting services in matters involving the Surrogate if the county reimburses the State for the costs of the interpreter.

Standard 1.3. Who may interpret.

The judiciary should use only interpreters registered with the New Jersey Administrative Office of Courts. In the unusual case in which any other interpreter is required, the judge or hearing officer should conduct a *voir dire* consistent with *New Jersey Rule of Evidence 604* and administer the interpreter’s oath. (See Standard 3.1.) The use of family members and friends as interpreters should be avoided.

Comment:

The Administrative Office of the Courts maintains a registry of interpreters that is regularly updated and available on both the judiciary’s external (www.njcourtsonline.com) and internal websites. Interpreters designated as “Conditionally Approved” or “Eligible Unapproved” should be used only when there are no approved interpreters for the particular language or when substantial effort has failed to locate an approved interpreter. “Conditionally Approved” interpreters should receive preference over “Eligible Unapproved” interpreters.

Interpreters obtained through agencies must meet the same standards as interpreters who are registered with the judiciary. On rare occasions, it may be necessary to use interpreters who do not meet judiciary standards. Such interpreters might be obtained through an agency or contracted on an individual basis. The key to the adequate delivery

of services is the use of an interpreter who is both competent and impartial. For this reason, the use of family members and friends is an unacceptable solution for all but the most limited of services. The only exception to the prohibition on using friends and family members as interpreters is for events with little potential to prejudice a case, such as conversations at Civil Division counters. See Standard 1.2.

These standards should not be construed to limit the authority of a court to determine the qualifications of a person testifying as an interpreter under *New Jersey Rule of Evidence* 604.

Standard 1.4. Reimbursement of expenses for interpreting services.

The judiciary may seek reimbursement when it incurs actual expense for interpreting services:

- 1. that could have been avoided but for the failure of a party or an attorney to give reasonable attention to the matter; or**
- 2. that an attorney or a pro se litigant requests but fails to use during a court event.**

Comment:

This standard has already become a de facto standard in many vicinages and points out the need for attorneys and litigants to be responsible in their use of public funds expended for interpreting services. In its use of the criterion, “failure . . . to give reasonable attention,” the standard parallels the language of *New Jersey Court Rule* 1:2-4, which delineates sanctions for attorneys who fail to appear for a court proceeding.

Examples of the types of events that might trigger a shifting of incurred interpreting costs to a party:

- requesting an interpreter, then not giving the judiciary sufficient advance notice that the interpreter is no longer needed, despite having such advance notice, or
- requesting an interpreter, then failing to appear with no legitimate excuse for such failure to appear.

Standard 1.5. Responsibility for interpreting expenses in civil commitment hearings and court-annexed arbitration.

The vicinage that has been assigned the responsibility of providing the judge for a civil commitment hearing should pay the expenses for supplying any needed interpreting services for that hearing. The costs of supplying interpreting services for court-annexed arbitration should be paid out of trial *de novo* funds.

Standard 1.6. Operational standards for telephone interpreting.

Interpreting services provided over the telephone shall conform to the Operational Standards for Telephone Interpreting issued as Directive #14-01, dated August 29, 2001.

Comment:

Clearly the goal of both in-person and telephone interpreting is the same: accurate communication; however, the delivery methods are, just as clearly, different. In recognition of this, the Judicial Council adopted operational standards for telephone interpreting, which were formally promulgated as Directive #14-01. Attached to that directive and incorporated by reference into it are manuals for judges and others who receive the service, managers who coordinate the service, and interpreters who provide the service.

SECTION 2. INTERPRETING FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

Standard 2.1. Access to the courts.

All people, including those who are deaf or hard of hearing, should have equal access to court proceedings, programs, and services.

Comment:

This section of the standards is intended to ensure compliance with the statutory requirements for aiding people who are deaf or hard of hearing as set forth in *N.J.S.A. 34:1-69.1 et seq.*, under which a person whose hearing is so impaired as to prohibit the person from understanding oral communication may request or require assistance in understanding a legal proceeding. In such circumstances, the court will give the individual an opportunity to ask for the auxiliary aid desired and will honor the type of aid requested unless it can provide an equally effective means of communication or the requested means would fundamentally change the nature of the proceeding or otherwise result in an undue financial or administrative burden. Costs for interpreting services for such persons will be borne by the judiciary. See Standard 2.6.

Requests for assistance can vary according to the communication needs of the person with a disability; however, American Sign Language interpreters are the aid most commonly requested.

Standard 2.2. Who may interpret.

The judiciary shall use only sign language interpreters who have been certified by the National Registry of Interpreters for the Deaf, Inc., and listed by the State Division of the Deaf and Hard of Hearing in the Department of Human Services or the New Jersey Registry of Interpreters for the Deaf.

Comment:

New Jersey statutes define who may be used by government entities for interpreting for persons who are deaf or hard of hearing. See, *N.J.S.A. 34:1-69.10*.

Standard 2.3. Use of intermediary sign language interpreters in Superior Court.

If either a sign language interpreter meeting the requirements of Standard 2.2 or a person who is deaf or hard of hearing states that the interpretation is not satisfactory and that an intermediary would improve the quality of interpretation, an intermediary interpreter shall be assigned to assist the original interpreter. Any such interpreter must take the same oath that all interpreters take. If an intermediary interpreter is used who does not meet the requirements of Standard 2.2, the judge or hearing officer should also consider conducting a *voir dire* consistent with *New Jersey Rule of Evidence 604*.

Comment:

Some deaf or hard of hearing people do not understand or communicate in American Sign Language. Some use a personal signing system or a sign language of another country. In such cases, an intermediary like a Certified Deaf Interpreter may be required to facilitate communication between the deaf or hard of hearing person and the court interpreter. Such intermediaries should be used whenever a failure to use them would cause communication problems. Staff should also be mindful of the judiciary's "Guidelines for Proceedings that Involve Deaf Persons Who Do Not Communicate Competently in American Sign Language."

This standard, which follows the language of *N.J.S.A. 34:1-69.9*, should not be construed to limit the authority of a court to determine the qualifications of a person testifying as an interpreter under *New Jersey Rule of Evidence 604*.

Standard 2.4. Who should be assigned a sign language interpreter.

As needed, the judiciary shall assign a sign language interpreter to assist a deaf or hard of hearing person throughout the proceedings and in communications with counsel immediately before, during, and immediately after a proceeding, in instances in which the deaf or hard of hearing person is a named party of the proceeding, a complainant, a witness, a juror, or the parent of a juvenile who is a named party of the proceeding, a complainant, or a witness.

Comment:

New Jersey statutes define the categories of people who must be provided with a qualified interpreter. See, *N.J.S.A. 34:1-69.10*.

Standard 2.5. Events for which a sign language interpreter must be provided.

The judiciary shall assign a sign language interpreter in the following circumstances:

- 1. at all stages in any judicial or quasi-judicial proceeding, including civil commitment proceedings;**
- 2. during any court-connected proceedings in any Family Part docket type, in arbitration, and in mediation;**
- 3. during any public exchange in a courtroom proceeding whether or not it is on the record;**
- 4. during delivery of in-court services involving court personnel or court-ordered outside services when purchased by the judiciary, such as diagnostic evaluations;**

5. **during preparation with counsel immediately before, during, and after a court event, as required by *N.J.S.A. 34:1-69.10*.**

Comment:

The judiciary is obligated to pay for interpreting services during court-ordered outside services paid for by the judiciary. However, if such services are not paid for by the judiciary (for example, supervised visitation by outside agencies), the judiciary must still try to ensure that the providers of such services comply with the spirit of these standards.

Standard 2.6. Responsibility for the costs of sign language interpreting.

The judiciary shall bear the costs of providing all necessary sign language interpreting services to a person covered by Standard 2.4 for the court events listed in Standard 2.5.

The costs of supplying any necessary sign language interpreting services for a civil commitment hearing should be borne by the vicinage that has been assigned the responsibility of providing the judge for that hearing under the annual rotation schedule issued by the Chief Justice.

As an exception to the general rule that the judiciary should bear all costs of sign language interpreting, a judge may choose to pass some or all costs on to an attorney whose failure to give reasonable attention to the matter has caused the court to incur expenses for an interpreter who is not needed. In such situations, the attorney may not pass any costs on to the client. The judiciary ordinarily will not seek reimbursement in such instances from a *pro se* litigant.

Comment:

The judiciary is required by statute to pay for assistance given to the deaf and hard of hearing under state law (*N.J.S.A. 34:1-69.7 et seq.*). Indeed, Directives #10-84 and #6-87 acknowledge that requirement. The New Jersey Judiciary is committed to providing its services, programs, and activities in a manner that assures accessibility for all users of the courts, including individuals with disabilities, in a way that comports with state law.

Although the judiciary is obligated to pay for all reasonable interpreting assistance to a deaf or hard of hearing person, the law is not clear with respect to whether such costs may be recouped when incurred because of the inaction or lack of adequate attention of a *pro se* litigant. While such situations are infrequent, such costs might be incurred, for example, when the court has not been notified of a settlement in time to cancel a sign language interpreter's assignment, even though ample notification time was available.

Standard 2.7. Positioning of sign language interpreter.

No proceeding shall begin until the sign language interpreter has been positioned in full view of the deaf or hard of hearing person for whom he or she is interpreting.

Comment:

See *N.J.S.A.* 34:1-69.11.

Standard 2.8. Waiver of right to a sign language interpreter.

A waiver of the right to a sign language interpreter shall not be approved by the court unless it in writing, signed by the person to whom the right is accorded, and agreed to in writing by that person's attorney, if any.

Comment:

Waivers of sign language interpreters are covered by statute. See *N.J.S.A.* 34:1-69.16.

Standard 2.9. Deaf or hard of hearing jurors.

As with any other potential juror, the trial judge should determine whether a deaf or hard of hearing person is able to serve as a juror in a particular case. *N.J.S.A.* 2B:20-1 requires that every person summoned to be a juror "shall be able to read and understand the English language" and "shall not have any mental or physical disability which will prevent the person from properly serving as a juror." A potential juror who indicates that he or she meets these qualifications, even if deaf or hard of hearing, should not be automatically disqualified.

Comment:

If a deaf or hard of hearing person needing a sign language interpreter is selected to be a juror, the court should refer to the "Guidelines for Trials Involving Deaf Jurors Who Serve with the Assistance of Sign Language Interpreters."

SECTION 3. INTERPRETING GENERALLY

Standard 3.1 Interpreter's oath.

All interpreters shall take the following written or oral oath at each proceeding of record for which they interpret: "Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreting that are binding on you, and discharge all of the solemn duties and obligations of an official interpreter?" No unsworn interpreter shall be permitted to interpret.

Comment:

This standard sets out uniform language for the oath that the evidence rule pertaining to interpreters, *N.J.R.E.* 604, requires be administered to all interpreters, a uniformity that did not exist prior to these standards. That evidence rule simply provides that a "judge shall determine the qualifications of a person testifying as an interpreter. An interpreter shall be subject to all provisions of [the evidence] rules relating to witnesses and shall take an oath or make an affirmation or declaration to interpret accurately."

The use of a uniform oath lends consistency to the procedure required by the evidence rule and underlines the importance of the oath and the concomitant responsibility it places on an interpreter to give accurate and impartial interpretations.

This requirement is viable only for proceedings placed on the record, but, at such proceedings, oaths should be administered both to those interpreters interpreting for the record and those who may be doing proceedings interpreting, *i.e.*, interpreting what is going on for a party at counsel table.

Standard 3.2. Putting interpreters' names on the record.

In any proceeding in which an interpreter is used, the judge or hearing officer conducting that proceeding shall have the interpreter state on the record his or her name and status as an official interpreter before beginning to interpret.

Standard 3.3. Speaking on the record to those needing interpreting services.

The judge or hearing officer conducting a proceeding on the record in which an interpreter is used should ensure that the person with limited proficiency in English or who is deaf or hard of hearing is addressed in his or her own language only by the official interpreter.

Standard 3.4. Team interpreting.

A team of two interpreters should be provided by the vicinage for proceedings if they are projected to last more than two hours.

Comment:

When a team of interpreters works together, one interprets while the other monitors the accuracy of the interpretation. Team interpreting is the industry standard for sign language interpreters. In fact, no sign language interpreter will work for the judiciary if a team is not present for proceedings that last more than two hours. The same industry standard is emerging among professionals in spoken language interpreting. Team interpreting is now widely used for spoken language interpreters in most vicinages, and implementing the standard should not result in any substantial increase in cost. While exceptions can be made when necessary to the team interpreting standard for spoken language interpreters, any such exceptions should be rare and the decision to make them carefully assessed.

Standard 3.5. Handling interpreter error and allegation of interpreter error.

If an interpreter reports having made an interpreting error or someone alleges such an error, the judge or hearing officer should use the detailed procedures set forth in the “Comments” portion of this standard for dealing with such errors or allegations of error.

Comment:

Correction of errors caught by the interpreter. In order to ensure the most accurate possible interpretation on the record, judges and hearing officers should accept the correction of errors when offered by the interpreter. In a jury trial, this should generally be done during a sidebar conference. In a non-jury proceeding, this should be done by permitting the record interpreter, if still interpreting, to correct the error at once, first identifying him/herself in the third person (e.g., “The interpreter wishes to correct an error”) for the record and then proceeding to make the correction. If the interpreter becomes aware of an error after the testimony has been completed, the judge or hearing officer should determine whether the error should be corrected on the record. If a jury is present, this should be done in a sidebar conference.

Handling of allegations of errors. When anyone other than the interpreter (including the team interpreter) alleges that an interpreting error has been made, the judge or hearing officer should handle resolution of the allegation outside the presence of the jury, if any. If there is a team of interpreters, the team should first confer and try to reach an agreement and the judge or hearing officer should accept any such agreed-upon correction by the team. Notwithstanding an allegation of error, the interpreter or interpreting team should be presumed to have interpreted correctly, unless the interpreter agrees that he or she made a mistake; the burden of proof in any such situation should be on the person challenging the interpretation.

If the interpreter stands by the interpretation that is alleged to have been incorrect, then the judge or hearing officer should determine whether the issue surrounding the allegedly

inaccurate interpretation is so substantial or potentially prejudicial as to warrant further attention. If it is not, the allegation of error should not be pursued further. If, however, the issue is substantial or potentially prejudicial, then the judge or hearing officer should:

- (1) ask the person whose speech was allegedly misinterpreted to clarify the term or terms in question. If that does not resolve the allegation of interpreter error, the judge or hearing officer should then hear evidence as to the correct interpretation from experts submitted by attorneys for all parties if they so wish, from the interpreter who made the alleged error, and from any other linguistic expert the judge or hearing officer may select or allow. In some situations, it may be advisable or necessary to play back the recording of what a witness has said since many perceived interpreting errors are a function of what was said in a foreign language rather than its interpretation; and
- (2) make a final determination as to the correct interpretation in view of the evidence. If the determination is different from the original interpretation, then the judge or hearing officer should amend the record accordingly and, if applicable, so advise the jury.

Standard 3.6. Reporting of any policy violations by interpreters.

If a judge or staff person believes that an interpreter engaged in conduct that violates either the Code of Professional Conduct for Interpreters, Translators and Translators or any other judiciary policy, he or she should so advise the vicinage coordinator of interpreting services.

Comment:

While judges or staff may form such a belief either through first-hand knowledge or otherwise (such as a complaint from an attorney), they should reasonably believe that a violation of policy has been committed before proceeding in accordance with this standard.

POLICY

The New Jersey Supreme Court has adopted the policy that the courts and their support services shall be equally accessible for all persons regardless of the degree to which they are able to communicate effectively in the English language. In order to complement the delivery of interpreting services which have historically been provided by interpreters who are physically present on site, the Judicial Council has approved a program¹ that requires delivering interpreting services to the courts and their support services by telephone in the following situations:

- (1) ***Emergent matters*** when no on-site staff or freelance interpreter is reasonably available; and
- (2) ***Short matters (non-emergent matters of thirty minutes duration or less)*** when no on-site staff or freelance interpreter will be reasonably available so long as it is more fiscally responsible to obtain the service by telephone than by bringing in an on-site freelance interpreter and the quality of the interpretation is not compromised.

The program for telephone court interpreting is grounded in the policy of the Judiciary articulated in *Guidelines for Contracting Free-lance Interpreters in the Superior Court* [hereinafter “Guidelines”] (March 9, 1995; revised March 25, 1996). The *Guidelines* provide that when no staff interpreter is available, the most qualified freelance interpreter available must be used. This means whenever possible the Superior Court must use interpreters who are either staff court interpreters approved by the Administrative Office of the Courts (AOC) or freelance interpreters registered with the AOC, but allowing the use of other interpreters provided by agencies only when no staff or registered freelance interpreter is reasonably available. Accordingly, this policy should be considered an extension of the policy articulated in the *Guidelines*.

Following the same hierarchy in the *Guidelines*, the Judiciary will obtain telephone interpreting services for emergent and short matters indicated above according to the following sequence:

1. *Full-time staff court interpreters.* At the present time, staff interpreters are available in the following languages: Galician, Portuguese, Spanish, and Ukrainian.
2. *Registered freelance interpreters.* Telephone interpreting services which cannot be satisfied by full-time staff court interpreters will be obtained from registered freelance interpreters, if available.

¹This Manual is based on Directive #14-01, *Operational Standards for Telephone Interpreting*.

3. *Agencies.* When neither a staff nor a registered freelance interpreter can provide the needed interpretation, telephone interpreting services will be provided ***as a last resort*** by a small group of agencies. Agencies are the last option because (1) they are the most expensive option and (2) they cannot guarantee they will provide qualified interpreters, which raises concerns regarding the quality of the interpreting delivered.

LOCAL COORDINATION OF TELEPHONE INTERPRETING SERVICES

Telephone interpreting services should be coordinated the same way all other interpreting services are coordinated. Except as may be otherwise provided within a vicinage, all arrangements for telephone interpreting flow through staff or designees of the Vicinage ATCA/Operations Manager. If problems arise with a particular interpreter, they should be referred the pertinent staff or designees of the Vicinage ATCA/Operations Manager, who may then forward them on to the Court Interpreting Section at the AOC.

MANAGING INTERPRETING SERVICES FOR “SHORT” MATTERS

When the coordinator of interpreting services receives requests for interpreting services, he or she should inquire of the person making the request approximately how long the event for which the interpreting services is being requested will take. Any time it appears likely for such a request to be a “short” matter, *i.e.*, thirty minutes or less, then the coordinator must arrange for telephone interpreting services if on-site services are not appropriate under the guidelines articulated in the Policy section above.

When the coordinator of interpreting services receives a request for telephone interpreting for a short matter as defined above, the coordinator should explore with the person making the request whether such a matter is really likely not to exceed the thirty-minute threshold. That discussion can lead to concluding, based on past experience or the totality of the case characteristics in this particular matter, that the request is not likely to be under thirty minutes. If this happens, the coordinator would advise the individual making the request that he or she will arrange for an on-site interpreter. In addition, the coordinator should also review standing requests for services for that language and, in consultation with the persons who manage the various case calendars, see if anything can be done to reschedule short cases from various divisions and departments on the same date.

However, if that discussion concludes that the case is indeed likely to take less than thirty-minutes, then the coordinator should proceed to find an interpreter who can commit to delivering the service by telephone.

EQUIPMENT CONFIGURATIONS FOR TELEPHONE INTERPRETING

Courtrooms/Hearing Rooms

When telephone interpreting is employed, the judge or other presiding official needs to make sure that the interpreter has no impediments to hearing everything that is said throughout the proceeding. The presumptive equipment configuration for all courtrooms and hearing rooms requires the following:

- Polycom SoundStation EX Model 2200-00696-001 situated on the judge's or other court official's bench (or the equivalent).
- A microphone on each counsel table with wires connecting the microphones to the speaker phone.

Other configurations are possible so long as everyone participating in the proceeding can hear the interpreter without difficulty and the interpreter can hear all of the participants without difficulty. For example, if a hearing room is small, either the Polycom unit identified above may be used without the external microphones or the Polycom SoundStation model 2200-00101-001, which does not come with external microphones, may be used.

For proceedings which may involve a confidential attorney/client consultation that requires interpretation, additional equipment is required. An outline of the distinctions between situations where only the speaker phone is required and where the supplemental equipment for attorney/client communications is required is attached at Appendix A. This set of equipment allows the judge or other court official to switch off the speakerphone when the attorney needs to have a confidential communication with the client. A diagram of this equipment and instructions for using it are provided at Appendix B. Some explicit practical suggestions for setting up this equipment are included at Appendix C. The only known alternative is to excuse the attorney and client for a few minutes so they can go to some other room where telephone interpretation can be provided.

Offices

The presumptive speaker phones to be used for receiving telephone interpreting services in offices where direct services are delivered (e.g., interviews and supervision contacts in case management offices and probation offices, receipt of forms or payments at customer service windows, etc.) are as follows:

- Large Office (up to 5-6 persons present), Polycom SoundStation Model 2200-00101-00
- Small Office (2-3 persons present), Polycom SoundPoint Pro SE-220.

This may be handled most cost effectively by one of the case management divisions or a probation department setting aside an office or small room that would have an authorized speaker phone and making that room available to all employees within the division or department, or even perhaps across divisions and departments. This would require the purchase of only a limited number of speaker phones. It certainly would not be reasonable to place the SoundPoint Pro in each employee's office.

The Polycom SoundStation EX Model 2200-006960-001, which is designed for large rooms such as courtrooms and hearing rooms, may be used in this context but is not required in this environment. Furthermore, the SoundStation Model 2200-00101-00 may also be used in a small office.

Until such time as the presumptive equipment is available, an alternate arrangement may be used that does not involve a speaker phone. In this instance, the employee and the linguistic minority client pick up separate handsets within the same room that have access to the same line to effect a three-way call with the interpreter.

Requests for Waivers of Presumptive Equipment

Request for exceptions to this equipment may be requested through the ATCA/Operations Manager to the AOC. Such requests should be forwarded by whoever is designated by the ATCA/Operations Manager to handle such requests to staff of the Court Interpreting Section, which, with the assistance of staff of the Technology Applications Unit in Appellate Court Administration and possibly staff interpreters, will determine whether the proposed alternate arrangement is actually workable.

Each request should include the following information:

1. Reasons for the request for a waiver of the presumptive equipment;
2. Exact make and model number of the speaker phones the vicinage wishes to use; and
3. A list of all major operating units (i.e., Civil Division Management, Criminal Division Management, Family Division Management, and Probation Department) that use the speaker phone.

PROCESS FOR FINDING AN INTERPRETER DURING NORMAL BUSINESS HOURS

The following sequence must be followed in finding an interpreter to deliver telephone interpreting services during normal business hours:

- *Staff interpreters first* if the language is Galician, Portuguese, Spanish, or Ukrainian
- *Registered freelance interpreters second* (except they may be first when the language is not available from any staff interpreter)
- *A registered agency* (except they may be first when the language is not available from either staff or registered freelance interpreters).

Staff Interpreters: Non-Spanish

Three staff interpreters interpret languages in addition to Spanish: Galician, Portuguese, and Ukrainian. The information for contacting them follows:

INTERPRETER/ VICINAGE	GROUPWISE E-MAIL?	TELEPHONE NUMBER	FAX NUMBER
<i>GALICIAN</i>			
Margarita Smishkewych/Union	Yes	908-659-4101	908-659-3880
<i>PORTUGUESE</i>			
Suzana Martinez/Ocean	Yes	732-288-7864 pager: 732-315-3359	732-288-7606
<i>UKRAINIAN</i>			
Margarita Smishkewych/Union	Yes	908-659-4101	908-659-3880

Staff Interpreters: Spanish

There are two ways to find a Spanish staff interpreter. One way is to contact via the following lists the counties that have Spanish staff interpreters until finding one that is available for a given assignment. The alternate way is to consult the *Telephone Interpreting' Calendar*² available on the InfoNet (instructions follow below) in case a staff interpreter has posted availability for a particular time range on a particular date.

Whether seeking an interpreter for an emergent or a scheduled matter, these routing sequences should be followed. The routing sequences were compiled in an attempt to balance the following considerations:

1. Ranking of the counties according to average daily amount of time available;
2. Geographic proximity to reduce cost of the long-distance call; and
3. Keeping calls within a vicinage when possible.

If a court interpreting coordinator should contact all of the counties listed according to that county's sequence as outlined below, then the coordinator may either contact any of the other counties that have staff interpreters or proceed to registered freelance interpreters listed in the Telephone Interpreting Calendar and, if still necessary, then to agencies.

²The software that supports this calendar is Brown Bear; the company's website is www.brownbearsw.com.

IF THE COUNTY IS:	THE SEQUENCE IS:
Atlantic/Cape May	Cumberland, Camden, Ocean, Essex, Passaic, Bergen, Hudson, Monmouth
Bergen	Essex, Hudson, Ocean, Passaic, Morris
Burlington	Mercer, Ocean, Essex, Passaic, Bergen, Hudson, Camden, Monmouth
Camden	Ocean, Mercer, Essex, Passaic, Bergen, Hudson, Monmouth, Cumberland
Cumberland	Ocean, Essex, Passaic, Bergen, Hudson, Camden, Middlesex, Monmouth
Essex	Passaic, Hudson, Ocean, Bergen, Morris, Union
Gloucester/Salem	Cumberland, Camden, Ocean, Essex, Passaic, Bergen, Hudson
Hudson	Passaic, Essex, Ocean, Bergen, Morris, Union
Mercer	Ocean, Essex, Passaic, Camden, Bergen, Hudson, Middlesex, Monmouth
Middlesex, Monmouth, Morris	Ocean, Essex, Passaic, Bergen, Hudson, Union
Ocean	Passaic, Essex, Bergen, Middlesex, Monmouth
Passaic, Union	Ocean, Bergen, Essex, Hudson, Morris
Somerset/Hunterdon/Warren	Ocean, Mercer, Passaic, Essex, Bergen, Hudson, Middlesex
Sussex	Morris, Passaic, Essex, Bergen, Hudson

Contact Persons for Finding Spanish Staff Interpreters

The table below provides the names of the primary and, where available, secondary persons who should be called to find out if a staff interpreter is available.

COUNTY	PRIMARY CONTACT PERSON	SECONDARY CONTACT PERSON(S)
Bergen FAX 201-646-2598	Helen Rein 201-646-3102	Mary Lou Ehlers 201-646-3102
Camden FAX 856-225-7391	Rosa Mendizábal 856-225-7514, -7531	Pat Robinson 856-225-7457
Cumberland FAX 856-451-7152	Mari Paz Russell 856-453-4370	Maria Buono -Gaimari 856-453-4366 Gladys Verlander 856-453-4686
Essex FAX 973-693-5753	Lauren Egbert 973-693-5755, -5756	Pat Romano 973-693-5755, -5756
Hudson FAX 201-795-6603	Gloria Oudine 201-217-5206	Bertha Johnson 201-459-2035
Mercer FAX 609-278-6647	Margo Reyes 609-278-2728	Letitia Davis 609-278-2715
Middlesex FAX 732-981-3944	Claudia Villalba 732-981-3182	Sherry Gardner 732-981-2673
Monmouth FAX 732-294-5952	Ana Rivera 732-431-6587	Joseph D. Barba 732-431-7085
Morris FAX 973-829-8298	Dottie Collins 973-285-6472	Enrique Noriega 973-285-6525
Ocean FAX 732-288-7606	Suzana Martinez 732-288-7864	Lisa Joyce 732-506-5348
Passaic FAX 973-247-8109	Lucy Rodríguez 973-247-8106	Hayley Encarnación 973-247-8106
Union FAX 908-659-3880	Margarita Smishkewych 908-659-4101	Miguel Socarrás 908-659-3889

Assumptions for Staff Interpreters in Accepting Telephone Interpreting Assignments

As a general rule, requests for telephone interpreting that come in to staff interpreter or a unit of staff interpreters should be handled the same way as requests coming in from within that county are handled. In most instances, interpreting services will be provided according to the sequence in which requests are received.

Additionally, if no staff interpreter is available when needed, the court official who is trying to locate an interpreter should call other vicinages according to the sequence provided above.

Registered Freelance Interpreters

Coordinators of interpreting services are reminded that the Judiciary's policy is to use approved interpreters (rotating work among both Master and Journeyman interpreters) when they are available. Conditionally Approved interpreters may be used only when approved interpreters are not available and Eligible Unapproved interpreters may be used only when neither Approved nor Conditionally Approved interpreters are available.³

There are two ways to locate registered freelance interpreters. First, a computerized calendar known as **Telephone Interpreting Calendar** is available to all employees who have access to the InfoNet via Netscape Communicator. This calendar will include the following information for any freelance interpreter who is available on any given date:

- Name
- Language(s)
- Time(s) available
- Any other information that might pertinent or different from published information (e.g., the interpreter is at a telephone number different from the one that is published in the *Registry*)

This data base will be maintained primarily by staff of the Court Interpreting Section at the AOC. Freelance interpreters will advise the Section regarding their availability and AOC staff will input that data into the calendar. The calendar may be found in the Interpreting Services section of the InfoNet. Here are two initial methods of accessing the calendar and the instructions for using it:

1. Click on "Quite Site Menu" in the middle of the front page of the InfoNet and move the cursor down to "Interpreting Services." Then click on "Find."
2. Click on "Central Office" on the top menu bar of the front page and scroll down to Interpreting Services in the left-hand menu column under "Trial Court Services, Director Jack P. McCarthy, Jr." Then click on "Interpreting Services."

³*Guidelines*, pp. 3-4.

In addition, any court employee who coordinates interpreting services and who has password access to the calendar can add the same information. Anyone who has a problem with a password or forgets his or her password can obtain assistance by sending an e-mail to “Web Work Mailbox” on the GroupWise e-mail system.

Specific and detailed instructions for using the calendar are also available. They are provided at the same location on the InfoNet and may be downloaded. If there are any user questions or problems other than password problems, the person to contact via e-mail is Toni McLaughlin, who is listed in the Users section of the address book in GroupWise.

The second way to locate a freelance interpreter is through the *Registry*. Find the interpreters for the language in question and contact first the ones who are approved to do telephone interpreting (“Yes” appears next to “Tel.”). If no interpreter is available who has been approved to do telephone interpreting, then reach out to all of the other interpreters listed for that language.

Registered Agencies

If no staff or registered freelance interpreter can handle the assignment, then and only then can the manager contact an agency. The only agencies that may be used are the ones registered to provide telephone interpreting services and listed in the section, “Interpretation/Translation Agencies for Telephone Interpreting Services” in the *Registry*. Any of the agencies may be used, but managers are encouraged to review the information regarding (1) quality control and (2) cost provided in the Registry and use agencies which are found to have higher standards. Note that some agencies require the court to already have an established account before being called for services.

PROCESS FOR FINDING AN INTERPRETER DURING TIMES OTHER THAN NORMAL BUSINESS HOURS

Staff or designees of the Vicinage ATCA/Operations Manager who have been designated the responsibility of coordinating the delivery of telephone interpreting services must set up a procedure for anyone who will need the service at times other than during normal business hours. Where possible, those procedures should include the same hierarchy:

- *Staff interpreters first* if the language is Galician, Portuguese, Spanish, or Ukrainian
- *Registered freelance interpreters second* (except they may be first when the language is not available from any staff interpreter)
- *A registered agency* (except they may be first when the language is not available from either staff or registered freelance interpreters).

However, since both staff interpreters and vicinage staff who coordinate interpreting services will rarely if ever be available during these times, the local coordinator of interpreting services, under the guidance of the Vicinage ATCA/Operations Manager, will need to establish a mechanism whereby employees who need telephone interpreting services may obtain them without delay and will submit the required evaluation forms without the ordinary coordination by the coordinator of interpreting services.

Ordinarily, this will mean having an arrangement with one or more agencies listed in the *Registry*. Each coordinator of interpreting services must advise all persons who may need to obtain telephone interpreting services during off hours exactly how to do so. The method of conveying this information to all of the operating units in the vicinage is left to the discretion of the ATCA/Operations Manager, but the information must be distributed to all persons who may need to use the service, perhaps with the assistance of the Civil, Criminal, and Family Division Managers, as well as the Chief Probation Officers.

CASE BACKGROUND INFORMATION FOR INTERPRETERS

Since preparation of an interpreter for every assignment is highly desirable and is already provided for with respect to freelance interpreters in the *Guidelines* (see p. 14), and since advance notice appears to be even more important when the interpreter is not physically present and able to do some of the preparation that is readily conducted in person, background information will be provided *when feasible*. This means it may not be feasible in some emergent matters, but it should be regularly provided in non-emergent matters and even in some emergent matters. Attached as Appendix D is the *Fax Request for Telephone Interpreting* form that should be completed by a court employee and faxed to the office (in the event of a staff interpreter) or the freelance interpreter that will provide the service.

Any time the court requesting the service is not able to fax this information, the interpreter should feel free to request some basic information from the court employee who has called to arrange for the service or from the judge or whoever is in charge of the event after being connected by telephone and before starting to interpret.

COMPENSATION RATES AND RELATED CONSIDERATIONS

Staff Interpreters and Freelance Interpreters Working from a Court House

When a staff interpreter delivers a telephone interpreting service to another vicinage, those services are being delivered within the staff interpreter's job specification. Accordingly, there is no fee to the vicinage receiving the service and there is no reimbursement to the vicinage where the interpreter is employed.

Similarly, when a freelance interpreter provides a service while on assignment at a court house, there is no reimbursement to the vicinage that brought the interpreter in that day. The vicinage who contracted for the interpreter pays the full amount to the interpreter.

Freelance Interpreters Working from Home or Personal Office

The *Guidelines for Contracting Free-lance Interpreters in the Superior Court* anticipated when they were published in 1995 that rates would soon be required for telephone interpreting (see note 9 at page 11). Accordingly, the *Guidelines* are hereby revised to include the following rates for individual freelance interpreters:

Any service rendered for under one minute and not exceeding thirty minutes is to be paid the flat rate indicated below for the first 30 minutes. In addition, after the first thirty minutes, each interval of one to fifteen minutes is to be paid at the fifteen-minute flat rates indicated herein. For example, Master interpreters will be paid \$40 whether they interpret for one minute or twenty-nine minutes. When Journeyman interpreters interpret for thirty-five minutes, they will be paid \$52.50.

RATES FOR TELEPHONE INTERPRETING		
CLASSIFICATION OF INTERPRETER	RATE FOR THE FIRST 30 MINUTES	RATE FOR EACH ADDITIONAL INTERVAL OF 15 MINUTES
Master	\$40	\$20
Journeyman	\$35	\$17.50
Conditionally Approved	\$25	\$12.50
Eligible Unapproved	\$20	\$10

The calculation of rates begins from either of the following points in time:

1. **When the interpreter is on the phone line**, regardless of when the proceeding actually starts. Example: The interpreter is called and gets on the line, but is on hold for ten minutes until the call is transferred to the courtroom. The proceeding then runs twenty-five minutes. In this case, the interpreter is entitled to the flat rate for the first 30 minutes and the rate for an additional 15 minutes.
2. **When the interpreter has been told to be available** for the proceeding. Example: The interpreter has been told to be available at 1:30 PM, and the court is not ready for this proceeding until 2:00 PM. The interpreter is entitled to the total amount of time per the above rates including (A) waiting time and (B) all the time actually on the phone for the interpreted event.

The cancellation policies indicated in the *Guidelines* will be in force for telephone interpreting assignments with one exception. The policy, as stipulated in the *Guidelines*, is as follows: “In the event the VCIS [Vicinage Coordinator of Interpreting Services] cancels the assignment within the immediately preceding working day (*i.e.*, less than twenty-four hours), the interpreter

is entitled to one-half of the minimum professional fee...” (at p. 16). The exception is that if an interpreter accepts a telephone interpreting assignment on the same day that the service is needed, and the assignment is canceled on the same day, then the interpreter is entitled to the full rate for the first thirty minutes.

Here are some specific scenarios:

- Interpreter agrees at 9:00 AM to provide services for an emergent matter scheduled for 9:45 AM on the same day (or any other time on the same date) and the request is canceled. Interpreter is entitled to the full rate for the first thirty minutes.
- Interpreter agrees at 1:00 PM to provide services for a scheduled matter at 3:00 PM two business days later, which is canceled at 10:30 AM the following business day. The interpreter is not entitled to any compensation.
- Interpreter agrees at 2:15 PM to provide services for a scheduled matter at 3:00 PM two business days later, which is canceled at 3:00 PM the next business day. The interpreter is entitled to one-half of the flat thirty minute rate that corresponds to the interpreter.

The rates for agencies are the ones published in the *Registry of Free-lance Interpreters and Interpretation/Translation Agencies*. Each agency will charge the same rate statewide as indicated in the Registry except when updated through the AOC. At the outset, six agencies are registered to provide telephone interpreting services.

PAYMENT FOR SERVICES

Payment for services rendered by freelance interpreters will be made pursuant to receipt by the appropriate office in the Judiciary of either of two documents. First, as provided in the *Guidelines*, a freelance interpreter may submit the State of New Jersey Payment Voucher (Vendor Invoice; form PV 5/93). This is the method by which freelance interpreters have historically been paid and with which they are familiar.

However, a new method has been approved and may now be used, whether for telephone interpreting or on-site assignments. In this case, the freelance interpreter can submit a written invoice in lieu of a state payment voucher so long as the following information is included:

1. Vendor identification number (social security number for individuals; federal identification number for agencies)
2. Name and mailing address where the check is to be sent (this should be consistent with the original W-9 form completed or pursuant to a subsequent Registration Change Form)
3. Name and mailing address of party being billed (*i.e.*, vicinage name and address)
4. Date of service
5. Specific description of service rendered (*e.g.*, judge or other employee of the Judiciary in whose presence the service was delivered)
6. Number for the invoice
7. Amount being billed according to the rates published herein
8. Any other information that the interpreter believes may be important

9. An *original* signature (an invoice created by the interpreter is valid only if mailed or turned in; faxed invoices are not valid)

Vicinage staff should verify all invoices for accuracy before processing them. In addition, the interpreter can submit invoices to an individual vicinage according to whatever billing cycle is mutually agreed to in advance (*e.g.*, per service rendered, weekly, or monthly).

MONITORING AND EVALUATION

During April through September 2001, the first six months of statewide implementation, the program will be monitored and evaluated. Separate evaluation forms (see Appendix E for the forms) have been designed for each of three principal groups:

1. Court employees who coordinate the services (the Vicinage Coordinator of Interpreting Services or designee)
2. Judges and other court officials who receive the service
3. Freelance (both while at a court house and from home or office) and staff interpreters who provide the service (interpreters obtained through agencies will not be completing this form)

The Court Interpreting Section has distributed a preliminary quantity of all forms to coordinators of interpreting services and to staff interpreters. If more forms become necessary, local personnel may make copies or request additional copies from the Court Interpreting Section.

One set of all three forms is to be completed (except that the interpreters' form is not completed when the service is obtained from an agency) as quickly as possible every time a telephone interpreting service is delivered to a specific judge or other court official. If there are two, back-to-back cases handled by the same judge or court official and the same interpreter, one set of forms should be completed, not two, using the name of the first case for purposes of identification.

Forms for Coordinators of the Service and Judges and Other Users of the Service

In each vicinage (or in each county in the multi-county vicinages), the coordinator of interpreting services must develop an efficient method of managing the process for collecting the data from the first two groups. Note that the two forms are stapled together and should be kept together. This eliminates the need to match up the two forms with the same case at a later point in time.

The following steps are recommended for accomplishing this, but a local coordinator may find some other process that works better:

1. Fill out as much of the "Evaluation Form to Be Completed by Coordinator of Interpreting Services" as possible before submitting to a judge or other court official.
2. Fill out the bottom of the form for judges and other court officials by indicating to whom the completed form should be returned (i.e., the coordinator of interpreting services who sent it in the first place).
3. Deliver that form, to which the second form is stapled, to the judge or other court official who will be using the service BEFORE the service is received, if possible.
4. Receive the form back.
5. Review the form to make sure the judge or other court official filled it out completely, especially questions 1-4 (note: there doesn't have to be a response to questions 5-9).
6. Answer additional questions that need a response, probably the section on Costs.
7. Send the two forms via contract messenger to the Court Interpreting Section at the AOC.

Anyone who has specific questions regarding how to fill out these forms should direct them to Robert Joe Lee at the Court Interpreting Section, preferably via e-mail, but by telephone (609-984-5024) or fax (609-633-7142) as well.

It may be desirable for the coordinator to develop and maintain a tracking system to know when forms have been delivered to a particular judge or other court official who has used a telephone interpreting service. This would ensure that the forms are returned in a timely manner and, when not, the coordinator is able to follow up easily. ***It is very important to do everything possible to have the judge or other court official fill out the form very close to the time of the interpreted proceeding.***

Forms for Interpreters

Any time a staff interpreter or a freelance interpreter working out of a court house delivers a telephone interpreting service, whether to another vicinage or within one's own vicinage, he or she must complete the evaluation form designed for interpreters. ***This should be done immediately following the service if at all possible, or the very next day if not on the same day.*** Send completed forms via contract messenger to the Court Interpreting Section periodically but no less frequently than monthly. If there is a supervisor of interpreters, that supervisor should collect the forms from all staff interpreters and send them in together.

STATISTICAL REPORTING

A new statistical report has been designed specifically for this program. The form, together with instructions for completing it, is provided at Appendix F. It should be submitted on a monthly basis during the early months of the project and, after implementation has succeeded, on a quarterly basis. The AOC will notify the vicinages in advance when to shift to a quarterly reporting schedule.

FOR FURTHER INFORMATION, CONTACT:

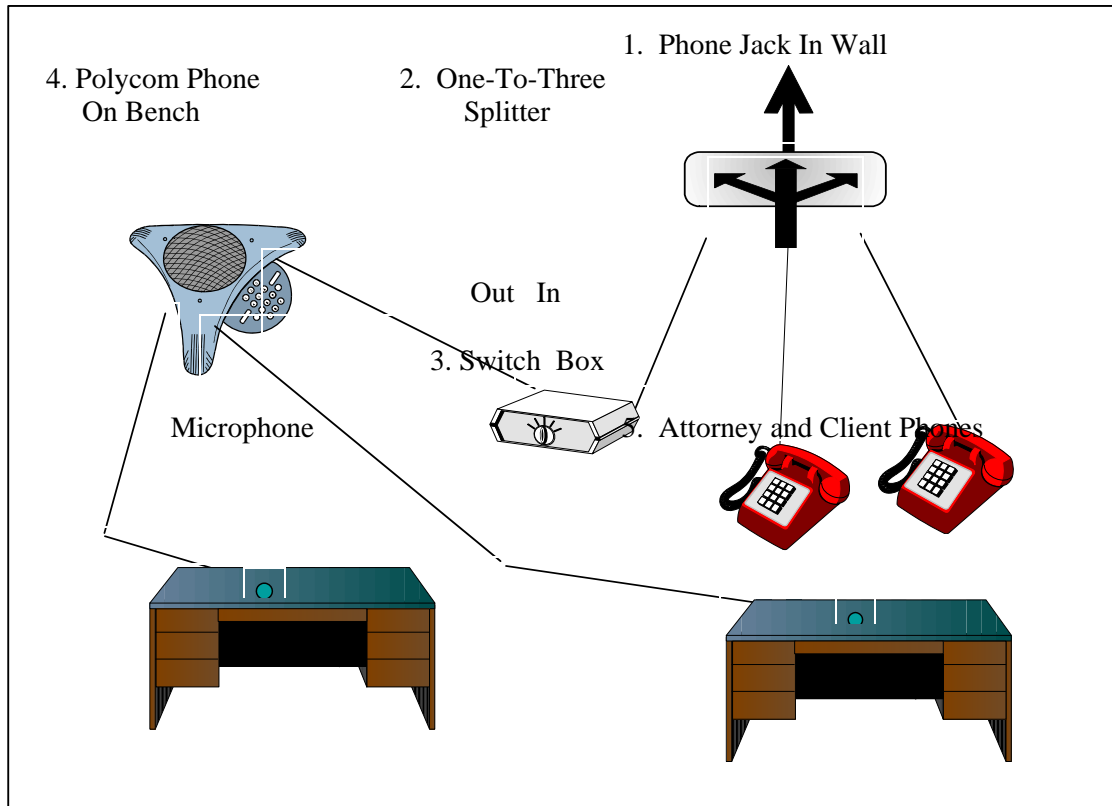
Court Interpreting, Legal Translating, and Bilingual Services Section
Special Programs Unit
Programs and Procedures Division
Office of Trial Court Services
Administrative Office of the Courts
P.O. Box 988
Trenton, NJ 08625-0988
609-984-5024

APPENDIX A
**TECHNICAL SPECIFICATIONS FOR
 TELEPHONE INTERPRETING IN PROCEEDINGS**

Basic Set for Simple Proceedings	
<i>This set is for proceedings at which there is no need for privileged and confidential attorney-client consultations during the proceedings.</i>	
Speaker Phone	<p>Details Polycom Model 2200-00696-001 SoundStation EX 2 external microphones, each with 25-foot cables.</p> <p>NOTE: This unit works only on analog lines. For digital lines, a digital-to-analog converter is required to make the SoundStation work.</p>

Basic Set for Complex Proceedings	
<i>This set is for proceedings during which there is a possibility to provide for privileged and confidential attorney-client communications during the proceeding.</i>	
Speaker Phone	<p>Details Polycom Model 2200-00696-001 SoundStation EX 2 external microphones, each with 25-foot cables.</p> <p>NOTE: This unit works only on analog lines. For digital lines, a digital-to-analog converter is required to make the SoundStation work.</p>
Switch Box	This item is engineered and assembled by the telephone technician affiliated with Facilities Management at the Administrative Office of the courts. It permits the judge to turn off the telephone line to the SoundStation speaker phone so that counsel and client can have a confidential communication with the assistance of the interpreter.
Standard Desk-top Telephone	Two standard telephone units are required with lines long enough to run between counsel table and the switch box.
One-to-Three Splitter	This item makes one phone line into three: One to the switch box which controls the SoundStation speaker phone, and one to each of the two telephones at counsel table.

APPENDIX B INSTALLATION DIAGRAM



To place a call in the **Public Conference Mode** (i.e., on the record):

1. Place the switch box to ON.
2. Turn on the Polycom phone.
3. Use the keypad on the Polycom to place a call.
4. When the call is made, you are in a Public Conference Mode.

To function in attorney-client **Private Conference Mode** (i.e., confidential, off the record):

1. At the point in which a Private Conference is to take place, the attorney and client must pick up the handsets on the phones in front of them on the counsel table. (Note: All three phones in the courtroom are now active.)
2. The clerk turns the switch box to the OFF position and the Polycom phone is no longer part of the conference. The system is now in Private Conference Mode.
3. When the confidential, private conference is concluded, the attorney must inform the clerk BEFORE the attorney and client hang up their handsets.
4. The clerk will turn the switch box to the ON position to activate all phones.
5. The attorney and client can now hang up their phones.

Should both the attorney and client hang up their phones before the switch box is placed to ON, the call will be terminated. If this occurs, redial the interpreter to resume the private conference or on-record proceeding.

APPENDIX C

PRACTICAL SUGGESTIONS FOR SETTING UP THE EQUIPMENT FOR ATTORNEY/CLIENT CONVERSATIONS ⁴

Maintaining the Equipment

The six components of this set of equipment should be stored in a sturdy carrying case or box that is clearly labeled. This way the equipment will be protected, easily located, and promptly transported to the location where it needs to be installed. The six components are as follows:

1. Wire to connect switch box to the splitter.
2. The one-to-three splitter.
3. Two desk-top standard telephones.
4. Two wires for connecting the desk-top telephones to the splitter.

Installation Instructions

A. Polycom speaker phone:

- Disconnect the wire that connects the Polycom speaker phone to the wall jack if it is already plugged into the telephone line.
- Connect the wire from the Polycom speaker phone to the switch box.

B. One-to-three splitter:

- Plug in the splitter to the wall jack.
- Connect a wire from the switch box to one aperture of the splitter.
- Connect both wires from the two desk-top telephones to the other two apertures of the splitter.

Suggested Warnings to Place on Switch Box and Telephones at Counsel Table

There is a danger of losing the interpreter if the switch box is turned off before counsel and client pick up their telephones or if the counsel and client hang up their phones before the switch box is turned back on. In order to prevent this problem, it may be advisable to place a warning on both the switch box and the telephones such as:

For switch box: DO NOT SWITCH OFF UNTIL THE TELEPHONES ARE PICKED
UP; SWITCH BACK ON BEFORE PARTIES HANG UP

For telephones: DO NOT HANG UP UNTIL INSTRUCTED BY THE COURT

⁴These suggestions are drawn largely from materials prepared for use in the Monmouth Vicinage, and thanks are expressed to Joe Barba and his staff for sharing them.

APPENDIX D

FAX REQUEST FOR TELEPHONE INTERPRETING

TO:

DATE:

DATE SERVICE NEEDED	LANGUAGE	STARTING TIME : AM/PM	ESTIMATED LENGTH OF ASSIGNMENT _____Minutes
NAME(S) OF COURT PERSONNEL INVOLVED		Name	
<input type="checkbox"/> Judge <input type="checkbox"/> Mediator/Arbitrator <input type="checkbox"/> Hearing Officer <input type="checkbox"/> Probation Off./Inv.		_____ _____ _____ _____	
CASE NAME			DOCKET NUMBER
CASE TYPE			
ATTORNEY NAMES Prosecutor/Plaintiff		<input type="checkbox"/> None Party is Pro Se Defense	
PARTY NAMES		Needs Interpreter	
#1 _____		<input type="checkbox"/> Yes <input type="checkbox"/> No	
#2 _____		<input type="checkbox"/> Yes <input type="checkbox"/> No	
#3 _____		<input type="checkbox"/> Yes <input type="checkbox"/> No	
PHONE NUMBER WHERE SPEAKER PHONE WILL BE LOCATED			
	Technical/medical terms likely to be used	Comments about anything unusual in this case	
NUMBER OF PAGES:		Attach any pertinent background documents	

APPENDIX E (1)

TELEPHONE INTERPRETING EVALUATION FORM
*To Be Completed by **The Coordinator of Interpreting Services**
and Forwarded to the Judge or Other Court Official*

Case Identification	
Date:	
Case Name:	
Docket No.:	
County Receiving Service:	
Interpreter's Name:	
Service was provided to: <i>(Check one box with ✓ or _.)</i>	<input type="checkbox"/> Judge/Civil <input type="checkbox"/> Judge/Criminal <input type="checkbox"/> Judge/Family <input type="checkbox"/> Judge/Small Claims <input type="checkbox"/> Judge/Landlord-Tenant <input type="checkbox"/> Judge/Reg.Civil <input type="checkbox"/> Judge/General Equity <input type="checkbox"/> Case Management/Civil <input type="checkbox"/> Case Management/Criminal <input type="checkbox"/> Case Management/Family <input type="checkbox"/> Domestic Violence <input type="checkbox"/> JD/Family Crisis <input type="checkbox"/> Non-Dissolution/Dissolution <input type="checkbox"/> All Other <input type="checkbox"/> Mediator <input type="checkbox"/> Arbitrator <input type="checkbox"/> Hearing Officer: Comprehensive Enforcement Program (CEP) <input type="checkbox"/> Hearing Officer: Child Support (CS) <input type="checkbox"/> Hearing Officer: Domestic Violence (DV) <input type="checkbox"/> Probation: Child Support (CS) <input type="checkbox"/> Probation: Juvenile <input type="checkbox"/> Probation: Adult

Service was provided by: <i>(Check one boxes that apply with ✓ or _.)</i>	Staff Interpreter <input type="checkbox"/> Within vicinage <input type="checkbox"/> From other vicinage Freelance interpreter from registry <input type="checkbox"/> From courthouse while on other assignment(s) <input type="checkbox"/> From home/work with no cancellation in effect <input type="checkbox"/> From home/work under a cancellation in effect Freelance interpreter from agency <input type="checkbox"/> A&A Korean <input type="checkbox"/> Berlitz <input type="checkbox"/> Inlingua <input type="checkbox"/> Language Line Services <input type="checkbox"/> Lingual Institute <input type="checkbox"/> Quantum	
Language Interpreted		
Interpreting services were received: <i>(Check one box with ✓ or _.)</i>	<input type="checkbox"/> On the same day as the request for service was made <input type="checkbox"/> One or more days after the request for service was made	
Interpreter Location Information		
Which of the following did you contact for interpreting services? <i>(Check one boxes that apply with ✓ or _.)</i>	<input type="checkbox"/> Staff Interpreter <input type="checkbox"/> Registered freelance interpreter <input type="checkbox"/> Registered agency	
How many calls did you have to make before you secured an interpreter for this assignment?		
Costs		
If telephone interpreting had not been available for this case, what is your estimate of the amount you would have spent for a freelance interpreter?	\$	

How much, if anything, was charged for this service?	<i>(\$0.00 if by staff, otherwise show actual fee.)</i> \$
Who paid for the long-distance call when the interpreter delivered the service? <i>(Check all boxes that apply with ✓ or _.)</i>	<input type="checkbox"/> The receiving county <input type="checkbox"/> The providing county <input type="checkbox"/> The freelance interpreter <input type="checkbox"/> The agency
Comments	

APPENDIX E (2)

TELEPHONE INTERPRETING EVALUATION FORM

*To Be Completed by **The Judge or Other Court Official Receiving Telephone Interpreting Service***

Name of judge or other court official receiving service	(Please print.)
Title	
Time interpreter came on	: <input type="checkbox"/> AM <input type="checkbox"/> PM
Time interpreter went off	: <input type="checkbox"/> AM <input type="checkbox"/> PM
Was there any confidential attorney/client communication using the telephone interpreting service in this proceeding?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Which, if any, of the following problems occurred in this telephone interpreted event? (Check all boxes that apply with ✓ or _.)	
Audibility	<input type="checkbox"/> Court/other user could not hear interpreter <input type="checkbox"/> Party could not hear interpreter <input type="checkbox"/> Interpreter could not hear party <input type="checkbox"/> Interpreter could not hear court official
Technical Issues	<input type="checkbox"/> Static on line <input type="checkbox"/> Problem with interpreter's phone <input type="checkbox"/> Problem with speaker phone <input type="checkbox"/> Problem with attorney/client line
Protocol	<input type="checkbox"/> Interpreter didn't follow instructions <input type="checkbox"/> Party was confused <input type="checkbox"/> Interpreter was not assertive enough
Length of Party's or Attorney's Utterances	<input type="checkbox"/> Phrases too short <input type="checkbox"/> Phrases too long (without breaks)
Rate of Speech by Attorney/Party	<input type="checkbox"/> Talked too fast <input type="checkbox"/> Talked too slow
Interpreter's Qualifications	<input type="checkbox"/> Had to do <u>voir dire</u> <input type="checkbox"/> Found interpreter to be unqualified <input type="checkbox"/> Had doubts, but used interpreter anyway
Other	Please specify.

What comment or reaction, if any, did the party/attorney make or have about the interpreting service being provided by telephone? <i>(Check one.)</i>	<input type="checkbox"/> No comment or obvious reaction <input type="checkbox"/> No noticeable reaction in either direction; neutral <input type="checkbox"/> Happy with the service or complimentary <input type="checkbox"/> Somewhat unhappy with the service or hesitant <input type="checkbox"/> Somewhat happy with the service or accepting <input type="checkbox"/> Very unhappy with the service and very critical
In your opinion, how well did telephone interpreting service work in this case? <i>(Check one.)</i>	<input type="checkbox"/> Extremely well <input type="checkbox"/> More positively than negatively <input type="checkbox"/> Mixed feelings and basically neutral <input type="checkbox"/> More negatively than positively <input type="checkbox"/> Not well at all
What concerns, if any, do you have about telephone interpreting?	
What suggestions, if any, would you offer to improve this service?	

Please return this form to:

APPENDIX E (3)

TELEPHONE INTERPRETING EVALUATION FORM

*To Be Completed by **the Interpreter***

Case Identification	
Date:	
Case Name:	
Docket No.:	
County Receiving Service:	
Interpreter's Name:	

Description of Assignment	
<p>Which of the following occurred during this telephone interpreted case? <i>(Check all boxes that apply with ✓ or _.)</i></p>	<input type="checkbox"/> Interpreter received faxed case description information in advance <input type="checkbox"/> Interpreter was sworn in <input type="checkbox"/> Interpreter's appearance was placed on the record <input type="checkbox"/> Interpreter was <i>voir dire</i> d <input type="checkbox"/> Judge or other court official provided background to the proceeding <input type="checkbox"/> Interpreter served a private attorney/client communication during the proceeding
<p>Degree to which court official gave the recommended explanation of the process to the parties. <i>(Check one box with ✓ or _.)</i></p>	<input type="checkbox"/> Most or all of them <input type="checkbox"/> Some of them <input type="checkbox"/> None of them
Evaluation of Assignment:	
<p>Which, if any, of the following problems occurred in this telephone interpreted case? <i>(Check all boxes that apply with ✓ or _.)</i></p>	
<p>Audibility</p>	<input type="checkbox"/> Court could not hear interpreter <input type="checkbox"/> Party could not hear interpreter <input type="checkbox"/> Interpreter could not hear party <input type="checkbox"/> Interpreter could not hear court official <input type="checkbox"/> Interpreter could not hear attorney
<p>Technical Issues</p>	<input type="checkbox"/> Static on line <input type="checkbox"/> Problem with interpreter's phone <input type="checkbox"/> Problem with speaker phone <input type="checkbox"/> Problem with attorney/client line <input type="checkbox"/> Words chopped off
<p>Protocol</p>	<input type="checkbox"/> Court official did not solve problems <input type="checkbox"/> Court official didn't understand interpreter's role <input type="checkbox"/> Court official didn't help interpreter understand what was happening <input type="checkbox"/> Court official criticized interpreter for interrupting too much
<p>Length of Utterances</p>	<input type="checkbox"/> Party/attorney spoke too long (w/o breaks) <input type="checkbox"/> Party/attorney spoke too short <input type="checkbox"/> Court official spoke too long <input type="checkbox"/> Court official spoke too short

Speed	<input type="checkbox"/> Party/attorney talked too fast <input type="checkbox"/> Party/attorney talked too slow <input type="checkbox"/> Court official talked too fast <input type="checkbox"/> Court official talked too slow
The Linguistic Minority Party	<input type="checkbox"/> Was confused by process <input type="checkbox"/> Mumbled/did not speak clearly <input type="checkbox"/> Had limited linguistic skills
Need to Request Repetition	<input type="checkbox"/> Had to ask court official to repeat <input type="checkbox"/> Had to ask party to repeat <input type="checkbox"/> Had to ask attorney to repeat
Need for Clarification	<input type="checkbox"/> Had to ask court official for clarification <input type="checkbox"/> Had to ask party for clarification <input type="checkbox"/> Had to ask attorney for clarification
Miscellaneous	<input type="checkbox"/> Interpreter was not always able to follow who was speaking <input type="checkbox"/> Long silences left interpreter wondering what was happening <input type="checkbox"/> Things happened (<i>e.g.</i> , significant non-verbal events) that were not clarified to the interpreter
Sight Translation/Interpretation	
Was any document sight interpreted? (<i>Check one box with ✓ or _.</i>) <input type="checkbox"/> No <input type="checkbox"/> Yes	If yes, please provide the title of the document or describe it completely):
Summary Questions	
Were there any significant problems with this telephone interpreted event? (<i>Check one box with ✓ or _.</i>) <input type="checkbox"/> No <input type="checkbox"/> Yes	If yes, please provide what it/they were.
Did anything happen in this case that particularly helped make telephone interpreting succeed? (<i>Check one box with ✓ or _.</i>) <input type="checkbox"/> No <input type="checkbox"/> Yes	If yes, please provide what it/they were.

What concerns, if any, do you have about telephone interpreting?	
Comments	

Return this completed form to:
 Court Interpreting Section
 Administrative Office of the Courts
 P.O. Box 988
 Trenton, NJ 08625-0988

APPENDIX F
TELEPHONE INTERPRETING
STATISTICAL REPORT

County: _____ Month/year: _____

Person Completing This Form: Name: _____

Telephone: () -

Section 1: Telephone Interpreted Services *Received* by County

A. Number of events served by staff interpreters:

① From within county:

② From another county:

B. Number of events served by freelance interpreters working from another county (i.e., paid by that county):

C. Number of events served by registered freelance interpreters (excluding those reported in B):

D. Number of events served by registered agencies:

Section 2: Services *Delivered* by Staff Interpreters or Freelance Interpreters Working for this County to Other Counties

E. Number of events in other counties served by this county's *staff interpreter(s)*:

F. Number of events in other counties served by *freelance interpreters* working from (i.e., paid by) this county:

Submit this report electronically or by hard copy ***by the third Monday of each month for the preceding month*** to: Robert Joe Lee, Court Interpreting Section, Administrative Office of the Courts, P.O. Box 988, Trenton, NJ 08625-0988; fax: 609-633-7142. Call 609-984-5024 with questions about this form.

GUIDELINES FOR COMPLETING THE TELEPHONE INTERPRETING STATISTICAL REPORT FORM

Who compiles the data?

Each vicinage's ATCA/Operations Manager should designate one person in each county the responsibility of compiling and submitting the data for that county.

What is the difference between Section 1 and Section 2?

Section 1 covers *telephone interpreting services that are received by anyone working in a given county*. Section 2 covers *telephone interpreting services that are delivered to another county by anyone working for a given county*.

What is the unit of count?

"Number of events served" means the number of events that are interpreted by telephone. "Event" is defined as follows: "An 'interpreting event' means each interpreting situation within each separate assignment an interpreter goes to interpret for, regardless of whether services are actually provided." For example, if an interpreter assists a judge or hearing officer with two back-to-back cases on one call, that constitutes two events.

What is the relationship of this statistical report to the quarterly "Court Interpreting Statistical Report" required per the *Statistical Policy and Procedure Manual for Interpreting Services*?

This report should include all interpreted events served by telephone and no events served in person. All cases/events reported on this form should also be reported in the quarterly statistical report, i.e., whether in person or by telephone.

What does each of the items on the form really mean?

- A①: Events within your county that one of your own judges, hearing officers, or other staff interpreters interprets by telephone for your own staff, e.g., working by telephone from the interpreter's office to another building in your county.
- A②: Events within your county that a staff interpreter from another county interprets by telephone for your judges, hearing officers, or other staff.
- B: Events within your county that a registered freelance interpreter who is working for another county and being paid by the county interprets by telephone, presumably from that other county's court house, for anyone in your county.
- C: Events within your county that a registered freelance interpreter interprets by telephone directly for you, paid by you, coordinated by you, for anyone in your county.
- D: Events within your county that are telephone interpreted by someone provided by an agency that you have coordinated and paid for and are delivered to anyone in your county.

- E. Events that your county's staff interpreters have telephone interpreted for any other county. If there is no staff interpreter in your county, this will always be blank or 0.
- F: Events that a registered freelance interpreter working on site in your county whose services you are paying for interprets by telephone for any other county.

**Superior Court Of New Jersey
Law Division, Special Civil Part**

a minor by his/her Guardian *ad Litem*

County

Docket No. _____

Plaintiff(s),

vs.

Defendant(s),

ORDER

**Entering Judgment and Directing Deposit of
Funds**

This matter having come before the Court in accordance with *R. 4:44-3* and the attorneys for the parties having reported to the Court that a settlement of the infant plaintiff's claims has been arrived at between the plaintiff and the defendant(s), and the Court having then taken proofs on the record and having approved said settlement;

IT IS on this _____ day of _____, _____, ORDERED that Judgment is entered on behalf of _____ and infant by his/her Guardian *ad Litem* in the gross amount of \$ _____ against the defendant(s), _____ without costs and/or interest; and

IT IS FURTHER ORDERED that the following deductions shall be made from this gross settlement and paid by the defendant(s) in separate drafts as follows:

a. \$ _____ to be paid to plaintiff's attorney(s) consisting of \$ _____ for actual disbursements, costs and expenses and \$ _____ for attorneys' fees; and

b. \$ _____ for medical bills to be paid as follows:

IT IS FURTHER ORDERED pursuant to *R. 4:48A* that the net recovery of \$ _____ shall be paid by or on behalf of the defendant(s) by check payable to the Surrogate of _____ County Intermingled Account in the name of _____, a minor, within ____ days of this Order.

IT IS FURTHER ORDERED that _____, (the Guardian *ad Litem*) immediately make application to the Surrogate of _____ County pursuant to *R. 4:81* for the appointment of a limited guardian of the estate of the minor, limited to the amount on deposit with the Surrogate. Said guardian shall not be authorized to receive any funds on behalf of the minor child except court directed withdrawals. It shall be the responsibility of the attorney for the plaintiff to see that this appointment is completed. Upon otherwise qualifying as Guardian, the posting of a bond by that person is dispensed with pursuant to *N.J.S.A. 3B:15-16*.

Thereafter monies are to be paid from said account only upon further order of the Superior Court of New Jersey, Chancery Division, Probate Part, pursuant to *N.J.S.A. 3B:15-17*, or upon the minor attaining majority under *N.J.S.A. 3B:15-17.1*; and

IT IS FURTHER ORDERED that the attorney for the plaintiff deliver a copy of this Order to all parties and the Surrogate of _____ County within _____ days of the date hereof.

J.S.C.

Excusal of Bar Association Officers and Members from Trial Dates

Directive # 9-97

January 20, 1997

(Supersedes Directives #3-85 and #5-97)

Issued by:

Chief Justice Deborah T. Poritz

This Directive restates the uniform policy established by prior Directive #3-85 regarding attorneys' requests for excusal from trial commitments because of conflicts with their obligations as members, trustees, or officers of the New Jersey State Bar Association.

Trial judges should honor the request of any officer or trustee of the New Jersey State Bar Association to be excused from trial commitments on the day of a scheduled trustees' and officers' meeting. There are approximately 40 trustees and officers and they meet generally 10 times a year. Reasonable notice of such meetings should be given to the Assignment Judge by any trustee or officer who requires an excuse from trial commitments. Assuming such notice is given, denial of a request should be limited to extraordinary circumstances, such as the previous scheduling of a matter involving many attorneys where it is clear that rescheduling will be inordinately difficult. The same policy applies to members of the Judicial and County Prosecutor Appointments Committee (which meets eight or nine times a year), and to those members of the General Council who plan to attend the annual or semi-annual Bar Association General Council meetings, again subject to reasonable prior notice to the court.

Thank you for your cooperation.

EDITOR'S NOTE

No change has been made to the original text.

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS



HUGHES JUSTICE COMPLEX
PO BOX 037
TRENTON, NEW JERSEY 08625-0037

[Questions or comments may be
directed to 609-292-8470.]

Directive # 12-05
[Supersedes Directive #6-94]

TO: ASSIGNMENT JUDGES
CIVIL PRESIDING JUDGES

FROM: PHILIP S. CARCHMAN

SUBJ: PROCEDURE FOR RESOLVING ATTORNEYS' CIVIL TRIAL SCHEDULING CONFLICTS

DATE: JUNE 30, 2005

This Directive, as approved by the Supreme Court, supersedes and updates Directive #6-94, which was issued July 19, 1994. Pursuant to this Directive, the following procedures apply for resolving attorneys' civil trial scheduling conflicts. The procedures should be followed uniformly in all counties.

1. As a general principle, in the event of a conflict involving cases scheduled for trial at the same time in different counties, the older or oldest case will have priority over cases commenced at a later time. Exigent circumstances may, however, suggest a different priority, as, for example, when a party is terminally ill or a complex matter involving multiple attorneys has been scheduled peremptorily (see paragraph 4, below). In such instances, the vicinage with the younger case must follow the procedure set forth in paragraph 3, below.
2. Immediately upon recognizing that a conflict may exist between cases scheduled for trial at the same time in more than one county, an attorney shall notify the Civil Division Manager of each county in which a conflicting case is scheduled, as well as all counsel in all affected cases, in order that the Civil Division Manager with the newer case may know that the case is subject to the trial of an older case in another county.
3. In the event that an attorney or a Civil Division Manager is of the opinion that valid reasons exist for extending priority to the newer case, the conflict will be promptly resolved by a conference of the Civil Division Managers of the counties where the cases are pending. In the event that the Civil Division

Managers are unable to resolve the scheduling conflict among themselves, each shall immediately communicate the problem to their respective Civil Presiding Judges, who shall promptly confer and resolve the conflict.

4. Peremptory designation is defined as trial priority granted by a Presiding Judge or his or her designee, regardless of the age of the case, upon a showing of exceptional circumstances and only where that Presiding Judge or designee has secured the consent of any other Presiding Judge(s) or designee(s) whose trial calendar may be affected by such designation. Peremptory designations should be used sparingly and should only be made no sooner than four weeks before the trial date.
5. When an attorney is actually in trial at the time another case is called for trial, whether or not the case called for trial is older, it either shall be marked "ready-hold" or "subject to" pending completion of the case in trial, or adjourned and another date set.
6. An attorney awaiting assignment for trial in more than one case shall proceed to trial on the first case actually assigned out to a judge for immediate trial, regardless of the age of the other case or cases. The intent of this principle is that a county may not hold an attorney in a case that cannot be assigned to a judge for immediate trial, but must release the attorney to proceed to another county where adverse counsel and the judge are awaiting the arrival of the attorney to commence trial immediately.
7. As stated in *R. 4:35-4*, insofar as practicable, all civil trials should be continuous and uninterrupted, and should run for the full day as prescribed in *R. 1:30-3*.

NOTE: Nothing in this Directive is intended to alter the operation of the designated trial counsel rule (Rule 4:25-4).

P.S.C.

cc: Chief Justice Deborah T. Poritz
Theodore J. Fetter, Deputy Admin. Director
Stephen W. Townsend, Supreme Court Clerk
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Directive # 16-05

[Questions or comments may
be directed to 609-292-8470]

TO: Assignment Judges
Presiding Judges (Civil, Family, General Equity)
Special Civil Part Supervising Judges

FROM: Philip S. Carchman, J.A.D.

RE: Orders to Show Cause as Original Process – Model Forms for Use in
Civil, Family, General Equity, and Special Civil

DATE: November 16, 2005

Attached are three standard form Orders to Show Cause for use as original process in Civil, General Equity, Family, and Special Civil Part matters. The Judicial Council approved these forms on September 15, 2005.

The first of the three model forms of order is for use when the order to show cause seeks summary relief under Rules 4:67 or 5:4-3; the second is for use when the order to show cause seeks temporary restraints under Rule 4:52; and the third is for use when the order to show cause is filed under Rule 4:52 and seeks a preliminary injunction on the return date.

The genesis of these standard forms was the Report of the Conference of General Equity Presiding Judges on General Equity Standardization (2002), which called for the development of standard provisions to be included in all orders to show cause used as original process. The Judicial Council asked the Conference of General Equity Presiding Judges to confer with other Presiding Judge Conferences to develop standard model orders to show cause for use in all Divisions in which such orders are filed. The attached set of standard forms is the result of that collaborative process.

The Judicial Council approved these forms for immediate use. The Supreme Court has asked the respective rules committees to draft and submit proposed amendments to the Rules of Court so as to include these three model forms in the Appendices to the Rules and also to provide necessary references to the existence of these forms and their required use in the relevant Rules.

The model forms set out common language required to be included in all orders to show cause used for original process. The model forms also set out Division-specific language. Note that these elements must be included in any Order to Show Cause used as initial process, though the form need not follow the model form word for word at this point. That is, the intent here is to ensure that all orders to show cause used as initial process contain standardized and complete information necessary for the court to act.

If you have any questions regarding this matter, please contact Kevin M. Wolfe of the AOC's Civil Practice Division at 609-292-8470.

P.S.C.

Attachments

cc: Chief Justice Deborah T. Poritz
Surrogates
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Family Division Manager
Special Civil Part Managers
Robert D. Pitt, Chief
Kevin M. Wolfe, Chief
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Model Form #1

**(for use when the order to show cause seeks
summary relief under Rules 4:67 or 5:4-3)**

SUPERIOR COURT OF NEW JERSEY
_____ DIVISION _____ COUNTY
_____ PART

[Insert the plaintiff's name],

Plaintiff(s),

v.

[Insert the defendant's name],

Defendant(s).

Docket No.:

CIVIL ACTION

ORDER TO SHOW CAUSE
SUMMARY ACTION

THIS MATTER being brought before the Court by _____, attorney for plaintiff, [*insert the plaintiff's name*], seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the verified complaint filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to [*insert the statute or court rule that permits the matter to be brought as a summary action*] and for good cause shown.

IT IS on this _____ day of _____, 20____, *ORDERED* that the [defendant(s) or alternate: parties in interest], [*insert defendant's or parties in interest name(s)*], appear and show cause on the _____ day of _____, 20____ before the Superior Court at the _____ County Courthouse in _____, New Jersey at _____ o'clock in the _____ noon, or as soon thereafter as counsel can be heard, why judgment should not be entered for:

A. [*Set forth with specificity the return date relief that the plaintiff is seeking.*];

B. _____;

C. _____;

D. Granting such other relief as the court deems equitable and just.

And it is further *ORDERED* that:

1. A copy of this order to show cause, verified complaint and all supporting affidavits or certifications submitted in support of this application be served upon the

[defendant(s) *or alternate*: parties in interest], [personally *or alternate*: describe form of substituted service] within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The plaintiff must file with the court his/her/its proof of service of the pleadings on the [defendant(s) *or alternate*: parties in interest] no later than three (3) days before the return date.

3. [Defendant(s) *or alternate*: Parties in interest] shall file and serve a written answer, [an answering affidavit or a motion returnable on the return date] [Family Part *alternate*: appearance or response] to this order to show cause and the relief requested in the verified complaint and proof of service of the same by _____, 20___. The answer, [answering affidavit or a motion] [Family Part *alternate*: appearance, response], as the case may be, must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of Judge _____.

4. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 20___. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

5. If the [defendant(s) *or alternate*: parties in interest], do/does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

7. [Defendant(s) *or alternate*: parties in interest] take notice that the plaintiff has filed a [lawsuit] [Family Part *alternate*: divorce action] against [you][*the estate of* _____] in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer, [an answering affidavit or a motion returnable on the return date to the order to show cause] [Family Part *alternate*: appearance or response] and proof of service before the return date of the order to show cause.

These documents must be filed with the Clerk of the Superior Court [*Surrogate*] in the county listed above. A list of these offices is provided. Include a \$ _____ filing fee payable to the “Treasurer State of New Jersey [*Surrogate of _____ County*].” You must also send a copy of your answer, [answering affidavit or motion] [*Family Part alternate: appearance or response*] to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer, [answering affidavit or motion] [*Family Part alternate: appearance or response*] (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than _____ days before the return date.

J.S.C.

ATLANTIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:
Deputy Clerk of the Superior Court
Case Processing Section, Room 119
Justice Center, 10 Main St.
Hackensack, NJ 07601-0769

LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:
Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd.
Mt. Holly, NJ 08060

LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:
Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth St.
Camden, NJ 08103

LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:
Deputy Clerk of the Superior Court
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210

LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts., P.O. Box 615
Bridgeton, NJ 08302

LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:
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50 West Market Street
Room 131
Newark, NJ 07102

LAWYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:
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Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08096

LAWYER REFERRAL
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LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY: Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House-- 1st Floor
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:
Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:
Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:
Deputy Clerk of the Superior Court
Administration Building
Third Floor
1 Kennedy Sq., P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:
Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:
Deputy Clerk of the Superior Court
Civil Division
30 Schuyler Pl., P.O. Box 910
Morristown, NJ 07960-0910

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:
Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754

LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton St.
Paterson, NJ 07505

LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 345-7171

SALEM COUNTY:
Deputy Clerk of the Superior Court
92 Market St., P.O. Box 18
Salem, NJ 08079

LAWYER REFERRAL
(856) 935-5628
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
New Court House, 3rd Fl.
P.O. Box 3000
Somerville, NJ 08876

LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:
Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:
Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 475-2010

Model Form #2

**(for use when the order to show cause seeks
temporary restraints under Rule 4:52)**

SUPERIOR COURT OF NEW JERSEY
_____ DIVISION _____ COUNTY
_____ PART

[Insert the plaintiff's name]

Plaintiff(s),

v.

[Insert the defendant's name]

Defendant(s).

Docket No.:

CIVIL ACTION

ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINTS
PURSUANT TO RULE 4:52

THIS MATTER being brought before the Court by _____, attorney for plaintiff, [insert the plaintiff's name], seeking relief by way of temporary restraints pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith; and it appearing that [the defendant has notice of this application] or [defendant consent's to plaintiff's application] or [immediate and irreparable damage will probably result before notice can be given and a hearing held] and for good cause shown.

It is on this ____ day of _____ ORDERED that defendant, [insert the defendant's name], appear and show cause before the Superior Court at the _____ County Courthouse in _____, New Jersey at ____ o'clock in the ____ noon or as soon thereafter as counsel can be heard, on the _____ day of _____, 20 __ why an order should not be issued preliminarily enjoining and restraining defendant, [insert the defendant's name], from

A. [Set forth with specificity the return date relief that the plaintiff is seeking.];

B. _____;

C. _____;

D. Granting such other relief as the court deems equitable and just.

And it is further ORDERED that pending the return date herein, the defendant is [temporarily] enjoined and restrained from:

A. [Set forth with specificity the temporary restraints that the plaintiff is seeking.];

B. _____;

C. _____.

And it is further *ORDERED* that:

1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the [plaintiff's attorney *or alternate*: plaintiff].

2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendant [personally *or alternate*: describe form of substituted service] within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.

4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 20____. The original documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of your opposition papers directly to Judge _____, whose address is _____, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 20____. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$_____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the plaintiff's attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

10. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

J.S.C.

ATLANTIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:
Deputy Clerk of the Superior Court
Case Processing Section, Room 119
Justice Center, 10 Main St.
Hackensack, NJ 07601-0769

LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:
Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd.
Mt. Holly, NJ 08060

LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:
Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth St.
Camden, NJ 08103

LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:
Deputy Clerk of the Superior Court
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210

LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts., P.O. Box 615
Bridgeton, NJ 08302

LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:
Deputy Clerk of the Superior Court
50 West Market Street
Room 131
Newark, NJ 07102

LAWYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street, P.O. Box 129
Woodbury, NJ 08096

LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY: Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House-- 1st Floor
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:
Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:
Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:
Deputy Clerk of the Superior Court
Administration Building
Third Floor
1 Kennedy Sq., P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:
Deputy Clerk of the Superior Court
Court House
71 Monument Park
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:
Deputy Clerk of the Superior Court
Civil Division
30 Schuyler Pl., P.O. Box 910
Morristown, NJ 07960-0910

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:
Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754

LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton St.
Paterson, NJ 07505

LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 345-7171

SALEM COUNTY:
Deputy Clerk of the Superior Court
92 Market St., P.O. Box 18
Salem, NJ 08079

LAWYER REFERRAL
(856) 935-5628
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
New Court House, 3rd Fl.
P.O. Box 3000
Somerville, NJ 08876

LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:
Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:
Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 475-2010

Model Form #3

**(for use when the order to show cause is filed under Rule 4:52
and seeks a preliminary injunction on the return date)**

SUPERIOR COURT OF NEW JERSEY
_____ DIVISION _____ COUNTY
_____ PART

[Insert the plaintiff's name],

Plaintiff(s),

v.

[Insert the defendant's name],

Defendant(s).

Docket No.:

CIVIL ACTION

ORDER TO SHOW CAUSE
PRELIMINARY INJUNCTION
PURSUANT TO RULE 4:52

THIS MATTER being brought before the Court by _____, attorney for plaintiff, [insert the plaintiff's name], seeking relief by way of preliminary injunction at the return date set forth below pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith and for good cause shown.

It is on this ____ day of _____ ORDERED that defendant(s), [insert the defendant's name], appear and show cause before the Superior Court at the _____ County Courthouse in _____, New Jersey at ____ o'clock in the ____ noon or as soon thereafter as counsel can be heard, on the _____ day of _____, 20 __ why an order should not be issued preliminarily enjoining and restraining [insert the defendant's name] from

- A. [Set forth with specificity the return date relief that the plaintiff is seeking.];
- B. _____;
- C. _____;
- D. Granting such other relief as the court deems equitable and just.

And it is further ORDERED that:

1. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendant(s) [personally *or alternate: describe form of substituted service*] within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.

3. Defendant(s) shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 20___. The original documents must be filed with the clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of your opposition papers directly to Judge _____, whose address is _____, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

4. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 20___. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

5. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

7. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written

answer to the complaint and proof of service within 35 days from the day of service of this order to show cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$_____ filing fee payable to the “Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than _____ days before the return date.

J.S.C.

ATLANTIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
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LEGAL SERVICES
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Civil Case Management Office
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Civil Division
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Flemington, NJ 08822

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Local Filing Office, Courthouse
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Court House, Room 119
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PASSAIC COUNTY:
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Civil Division
Court House
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Paterson, NJ 07505

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92 Market St., P.O. Box 18
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SOMERSET COUNTY:
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SUSSEX COUNTY:
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Sussex County Judicial Center
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Newton, NJ 07860

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UNION COUNTY:
Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 475-2010

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE DIRECTOR OF THE COURTS



RICHARD J. HUGHES JUSTICE COMPLEX
P.O. Box 037
TRENTON, NEW JERSEY 08625-0037

[Questions or comments may be addressed
to (609) 984-4557]

MEMORANDUM

[Directive #15-05]

TO: Assignment Judges
Civil, Criminal, Family, General Equity and
Municipal Presiding Judges
Trial Court Administrators
Civil, Criminal, Family, and Municipal Division Managers

FROM: Philip S. Carchman, J.A.D.

SUBJECT: Judiciary Open Records: Policies and Procedures for Access to Case-Related Court Records - Staff Guidelines

DATE: November 4, 2005

Attached is a policy document entitled the *New Jersey Judiciary Open Records: Policies and Procedures for Access to Case-Related Court Records - Staff Guidelines*, as approved by the Supreme Court on October 12, 2005. These Guidelines provide a workable framework for the uniform processing of requests for access to and copying of publicly disclosable Judiciary records throughout the state. The Guidelines are applicable to case-related records in the Superior Court and the Municipal Courts.

Copies of these Guidelines should be distributed to individuals responsible for responding to requests for court records, and should be made available to the public on request.

These statewide procedures for the consistent handling of public requests are not intended to change the substance of Rule 1:38, which specifies which Judiciary records must be made available to the public and which are not. There is, however, a consensus that there is a need to define with greater precision what is and should be producible and what is not. In the near future, therefore, a process will be established for conducting a comprehensive review of Rule 1:38.

These procedures provide staff with a consistent approach to handling requests from the public for disclosable case-related court records. Highlights of the Staff Guidelines are as follows:

1. **Openness Principle.** The Guidelines recognize the basic principle that, in the interest of an open and transparent court system, all case-related court records are open to public inspection unless there is a specific statute or court rule that exempts them. As stated in the Guidelines, “These procedures have been established to further the Judiciary’s open records policy, assure consistent and uniform response by court staff throughout the state, and eliminate artificial barriers that delay or complicate access by the public.” The statutory or rule authority for exempting specific records from disclosure is noted in the Guidelines.
2. **Form Required for all Requests.** Whenever a record is requested, either for copies or for inspection, the requestor should be asked to fill out a form indicating the record(s) being requested. Separate request forms have been developed for the Civil (including Special Civil and General Equity), Criminal, and Family Divisions of the Superior Court and for Municipal Court. The records request forms are identical except for Section C, which sets out differing identification criteria to facilitate identification of the records in that particular court. While the form asks for the requestor’s name, address, and other information, records requested must still be provided even if the requestor does not provide that personal information. That is the same approach taken in the Executive Branch under the Open Public Records Act, which permits anonymous requests. The instructions on the back of the forms indicate that providing personal identifying information is not mandatory. Forms in a fillable format will be posted on the Internet and Infonet. Hard copies should be duplicated locally.
3. **Personal Identification when Request is to Inspect a File.** Where a requestor seeks to inspect a file, that is, to have physical custody of the file for some period, there is a legitimate concern to ensure that the file is not tampered with. In such instances, the requestor should be asked to provide some form of personal identification. If the requestor is unable or unwilling to do so, production of the file may be delayed until a court staff member is available to sit with the requestor and monitor the use of the file. Guidance is also provided in the case of “institutional” requestors that seek to inspect large numbers of files on a regular basis. In no event should anyone be given unsupervised access to court files.
4. **Fees.** The fees that the Judiciary is permitted to charge for copying costs are set by statute; those fees should always be collected, even if the requestor is seeking a copy of just a one page record.
5. **File in Use.** While the Judiciary seeks in principle to make case-related records available to the public as expeditiously as possible, responses to such requests may be delayed if a particular file is in use by a judge or court staff. This suggests that in high-profile cases, where there may be frequent requests for

access to the file, special procedures should be considered, such as making a duplicate file that is always available for public inspection.

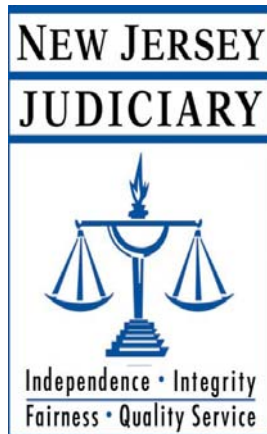
6. **Customizing for Local Use.** The Guidelines also include, as Attachment 6, a customizable form that each vicinage must complete by inserting the address and phone number information of the various Division offices in that vicinage where records may be obtained. The template for that form will be distributed electronically.

In addition to this hard copy distribution of the Staff Guidelines, an electronic version will be posted on the Judiciary's Infonet. Attachment 6 and the four Record Request Forms will be emailed and posted on the Infonet as well. Questions or comments concerning these Guidelines may be addressed to Special Assistant, Francis W. Hoeber at (609) 984-4557.

P.S.C.

enclosure

c: (with enclosure)
Chief Justice Deborah T. Poritz
Working Group Members
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
Donald F. Phelan, Clerk of the Superior Court
Chairs, Conferences of Division Managers
Operations Division Managers
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant



NEW JERSEY JUDICIARY OPEN RECORDS

**POLICIES AND PROCEDURES
FOR ACCESS TO
CASE-RELATED COURT RECORDS**

STAFF GUIDELINES

**Directive #15-05
(Issued November 4, 2005)**

As Approved by the Supreme Court
October 12, 2005

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1. Introduction and Purpose

The Judiciary has a longstanding open records policy. In accordance with Rule 1:38, the public has a right to inspect and copy “all records which are required by statute or rule to be made, maintained or kept on file by any court, office or official within the judicial branch of government” unless they are specifically exempted from disclosure by law, rule or court order. The term “public” is all-inclusive and refers to individual citizens, the press, commercial entities, and persons representing various interest groups. They all share an equal and unqualified right to inspect and copy non-confidential court records. The public is entitled to access to these records with no requirement to pay “search fees” or to provide a reason for wanting to inspect the records.

These procedures have been established to further the Judiciary’s open record policy, assure consistent and uniform response by court staff throughout the state, and eliminate artificial barriers that delay or complicate access by the public. These procedures are general guidelines for responding to records requests and are modeled after the procedures established by the Open Public Records Act (OPRA), notwithstanding that OPRA is expressly not applicable to the Judiciary.

Note: Since judges’ trial notes are not “required by statute or rule to be made, maintained or kept on file,” they are not subject to public disclosure pursuant to Rule 1:38.

2. Procedures for Inspecting and Copying Court Records

- A. **Assistance.** Judiciary staff, including municipal court staff, shall assist individuals seeking to identify, locate, inspect, and copy court records. Where self-service public access terminals are available, staff shall provide instructions for their use.
- B. **Request Types.** Judiciary staff, including municipal court staff, shall respond to specific record requests in identified cases (e.g., the complaint filed in Doe v. Doe, docket number xx-xxxx) as well as to non- case specific record requests (e.g., copies of all complaints filed in the civil division in Cape May county on a particular day).

In the event the requestor is seeking non-case specific record requests in a municipal court, the municipal court administrator may need to consult with Municipal Court Services in Trenton to determine if a computer generated report may be available.

- C. **Request Form.** Requestors shall be asked to complete the appropriate form (see Attachments 1 through 5). However, if the requestor declines to identify him or herself, he or she is still entitled to the records.
- D. **Record Identification.** Judiciary staff may ask a requestor to provide identifiers that will help locate a specific record, such as the party name, case name or number, or docket number. In criminal cases, identifiers can include SBI (State Bureau of Investigation) number, defendant’s date of birth or social security number, date of arrest, date of disposition, or name of trial judge. If a specific record cannot be located due to lack of adequate identifiers, the requestor shall be advised as to what identifiers are needed to locate the record.

- E. **Inspection Area.** Each case management office or municipal court shall identify an area where the public may inspect court records. This area shall be monitored by court staff to the extent necessary.
- F. **Removing Confidential Documents Before Inspection.** Before releasing a record for inspection, staff shall examine the record and remove confidential information. If there is doubt about whether information contained in a public court record is confidential, the question should be referred to the division manager, Presiding Judge, or municipal court administrator.
- G. **Physical Inspection.** If the request is for physical inspection of a court file or document rather than a photocopy, ask the requestor to provide a government issued identification (for example, a driver's license). "Institutional" requestors (e.g. from title or credit companies) may make frequent use of court files; court staff should exercise their discretion as to the degree of scrutiny with which these requestors must be monitored. If such identification is not provided, notify the requestor that access to the records may be delayed until a court staff member is available to provide individual monitoring of the inspection of the records.
- H. **Records in Use.** If a record in an active case is not immediately available in a division's case management office, (for example, if it is in use by the judge or staff) Judiciary staff should advise the requestor where the record is located and when it will be available for inspection.
- I. **Copy Fees.** Judiciary staff shall advise requestors of the copy fees, and make copies upon request. Fees for copying court records in all court divisions are as follows:
 - 75¢ per page for the first to the tenth page;
 - 50¢ per page for the eleventh to the twentieth page;
 - 25¢ per page for all pages over twenty;
 - \$5.00 additional for certified copies (without seal) or \$10.00 for exemplified copies (with seal). EXCEPTION: The first certified or exemplified copy is provided to an attorney or litigant *in that case* free of charge. *N.J.S.A. 22A:2-19.*
- J. **Deposit May be Required.** If the estimated cost of duplication exceeds \$50, the requestor may be required to provide a deposit equal to 50% of the estimated cost. Personal check, money order, cash, or attorney collateral account is acceptable for payment.

3. **Types of Court Records Available**

Typical court records include complaints, answers, motions, affidavits, certifications, orders, opinions, and other documents that are part of a case file. Records available from case-related divisions of the court are shown on the following pages. If there is any doubt about whether a record is confidential, the question should be referred to the division manager, Presiding Judge, or municipal court administrator, as appropriate. Note that Criminal, Family, and Probation Division records pertaining to investigations and reports made for a court or pertaining to persons on probation are specifically exempted from disclosure pursuant to Rule 1:38(b). Therefore, Probation Division records are not covered by these guidelines.

Availability of Civil Division Records

Within the Civil Division, including Special Civil and General Equity, all case records are generally available for public inspection and copying except a limited number of specific types of documents that are confidential. Such confidential records are not to be made available to the public, and must be removed before the file is made available.

Do not disclose confidential records in Civil files, which include but are not limited to:

- Civil commitment records. *N.J.S.A.* 30:4-24.3, *R.* 4:74-7.
- Records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection. *R.* 1:38(d).
- Records which a court has ordered impounded or kept confidential. *R.* 1:38(e).
- Records relating to child victims of sexual abuse. *N.J.S.A.* 2A:82-46.

See Attachment 1 - Record Request Form, Civil Division.

Availability of Criminal Division Records

Within the Criminal Division, all case records are generally available for public inspection and copying except a limited number of specific types of documents that are confidential. Such confidential records are not to be made available to the public, and must be removed before the file is made available.

Do not disclose confidential records in Criminal files, which include but are not limited to:

- Search warrants. *R. 3:5-4; R.3:5-6(c)*.
- Active police investigative reports *R. 1:38 (b)*.
- Records relating to grand jury proceedings. *R. 3:6-7*.
- Sealed indictments. *R. 3:6-8(a)*.
- Bail reports. *R. 1:38 (b)*.
- Pretrial intervention reports. *R. 1:38 (b)*.
- Pre-sentence reports. *R. 1:38 (b)*.
- The name of any child victim of sexual abuse *N.J.S.A. 9:6-8.10(a)*.
- Records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection. *R.1:38(d)*.
- Records which a court has ordered impounded or kept confidential. *R. 1:38(e)*.
- Expunged records – (Please note that in response to inquiries about expunged records you must reply that there is no record information.) *N.J.S.A. 2C:52-15*.
- Records pertaining to investigations and reports made for a court or pertaining to persons on probation are specifically exempted from disclosure. *R.1:38 (b)*.

See Attachment 2 - Record Request Form, Criminal Division.

Availability of Family Division Records

As a general rule, Family Division records are confidential and shall not be disclosed to the public. Exceptions involve FM (Dissolution) and FD (Non-Dissolution) case files.

FM (Dissolution) and FD (Non-Dissolution) Case files

Pursuant to Rule 1:38, dissolution and non-dissolution court records are generally open to public inspection. However, the files in these cases may contain specific types of documents that are confidential and that are *not* to be made available to the public. The following are examples of confidential documents or records that may be contained in a dissolution or non-dissolution case file and that must be removed before the file is made available.

Do not disclose confidential records that may be in FM (Dissolution) or FD (Non-Dissolution) files, which include but are not limited to:

- Domestic Violence records and reports. *N.J.S.A. 2C:25-33.*
- Child Abuse/Neglect records and reports. *N.J.S.A. 9:6-8.10(a).*
- Paternity records and reports which may reveal the identity of any party to a paternity matter, except for the final judgment or birth certificate. *N.J.S.A. 9:17-42.*
- Custody records/reports of children under age 16 at the time of commencement of the action and if the record involves allegations of moral turpitude at to either the parent or the minor child, or may reflect upon the good reputation or social standing of the child. *N.J.S.A. 9:2-3.*
- Confidential Litigant Information Sheet. *R. 5:4-2(g).*
- Custody evaluations and reports. *R. 5:8-4. (Exception: Maybe released to the litigant unless a Judge has restricted litigant's access to the report.)*
- Income Tax returns and return information. *26 U.S.C.A. §6103.*
- Social Security numbers in marriage certificates (*N.J.S.A. 37:1-17*) or divorce decrees. (*N.J.S.A. 2A:17-56.60*). **Note:** Social Security numbers appearing in other documents are not protected from public disclosure at the present time.

- Child Support information received from the New Jersey Department of Human Services. 42 U.S.C.A. §654, N.J.A.C. 10:110-1.7.
- Records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection. R.1:38(d).
- Records which a court has ordered impounded, kept confidential, or sealed. R. 1:38(e), R.5:3-2 (b).
- Juvenile delinquency records and reports. R.5:19-2, N.J.S.A.2A:4A-60 to 62.
- Adoption records and reports. N.J.S.A. 9:3-52.
- Records pertaining to investigations and reports made for a court or pertaining to persons on probation are specifically exempted from disclosure. R.1:38 (b).

See Attachment 3 - Record Request Form, Family Division.

Availability of Municipal Court Records

Municipal courts are generally located in the individual municipality they serve and should be contacted individually for any records sought from that particular municipal court. Within each municipal court, all case records are generally available for public inspection and copying except a limited number of specific types of documents that are confidential. Such confidential records are not to be made available to the public and must be removed before the file is made available.

Do not disclose confidential records that may be contained in Municipal court files, which include but are not limited to:

- Records relating to criminal, family and probation division records pertaining to investigations and reports made for a court or pertaining to persons on probation. An example of this type of record includes pre-sentence reports. *R. 1:38(b)*.
- Records required by statute or rule to be kept confidential or withheld from indiscriminate public inspection. *R. 1:38(d)*. Examples of what must be kept confidential include the name of any child victim of sexual abuse, *N.J.S.A. 9:6-8.10(a)*, and the location of a domestic violence victim, *N.J.S.A. 2C:25-26(c)*.
- Records of programs approved for operation for the mediation of minor disputes. *R. 1:38(g)*; *R. 7:8-1*.
- Records that a court has ordered impounded or kept confidential. *R. 1:38(e)*.
- Expunged records – (Please note that in response to inquiries about expunged records you must reply that there is no record information.) *N.J.S.A. 2C:52-15*.
- Search Warrants. *R. 3:5-4*; *R. 3:5-6(c)*.

See Attachment 4 - Record Request Form, Municipal Court.

4. Hours of Access/Location of Records

Superior Court records in each vicinage are available for access in all trial court divisions. Court records in active cases are found in various locations. Refer to Attachment 6 for vicinage specific hours of access and the location of records for each trial court division.

Hours of access for municipal courts are established separately by each particular municipal court. Since not all municipal courts are full time, you should check with the municipal court administrator for the hours of operation. Consult www.njcourtsonline.com for a directory of county courthouses and municipal courts.

5. Records in Closed Cases

Records in closed cases may be located off-site in the county or in the Records Management Center in Trenton. For records located in the county but off-site, requestors should be told how long it will take to get the record from the off-site county facility.

For records in Trenton, requestors should be asked to complete a Records Management Center request form (see Attachment 5), and advised that they may opt to receive a copy of the records by mail, or by visiting the Records Management Center in Trenton.

Municipal courts may have their own individual off-site storage. The municipal court administrator shall advise the requestor how long it will take to get the record from the off-site facility.

6. Time Frame for Responding to Record Requests

The availability of resources and the potential for disruption of court operations are considerations in determining how quickly judiciary staff can respond to record requests. In most cases, records stored on-site in the courthouse shall be produced for inspection the same day. Records stored off-site in a county facility shall be made available for inspection as soon as practicable. Records stored in the Records Management Center in Trenton may take up to 21 days.

If a record request is voluminous or for other reasons cannot be completed within the normal timeframe, or if a request is for certain documents on an ongoing basis (e.g., all complaints filed in the civil division each week) it shall be referred to the appropriate division manager or municipal court administrator. The division manager or municipal court administrator shall assess the request and together with the requestor craft a reasonable solution that meets both the public's need for access and the judiciary's need for efficient court operations.

7. Resolution of Complaints or Issues Related to Access

Complaints or issues relating to the inspection of court records shall be directed first to the appropriate division manager. If not resolved by the division manager, the matter shall be directed to the Trial Court Administrator or his or her designee. Refer to Attachment 6 for vicinage specific division manager contact information.

8. Cases with High Public Interest

In certain matters where there is a heightened degree of public interest, the Trial Court Administrator or his/her designee or the Office of Communication, Administrative Office of the Courts, may assume responsibility for handling public requests for certain court records. The Trial Court Administrator will:

- provide information concerning court business that is a matter of public record;
- provide the media with copies of judicial decisions and opinions;
- assist in securing copies of public transcripts (at the requesting person's expense);
- make arrangements for the electronic media to perform their duties in compliance with Supreme Court guidelines;
- as appropriate, distribute a schedule of court activities for the particular case.

In some cases, a duplicate case file may be prepared to provide easier access to frequently requested documents.

ATTACHMENT 1

Records Request Form – Civil Division



NEW JERSEY JUDICIARY
Records Request Form
CIVIL DIVISION

See instructions on the reverse side.

PART A: Requestor Information

LAST NAME		MIDDLE INITIAL	FIRST NAME
COMPANY			
ADDRESS			
CITY	STATE	ZIP	EMAIL
DAYTIME TELEPHONE (INCLUDE AREA CODE) EXT.		PREFERRED DELIVERY <input type="checkbox"/> PICK UP <input type="checkbox"/> US MAIL <input type="checkbox"/> ON SITE INSPECT	
SIGNATURE			DATE

PART B: Payment Information

SELECT PAYMENT METHOD

☐ CASH ☐ CHECK ☐ MONEY ORDER

COPY FEES

Pages 1 - 10 @ \$0.75 each
Pages 11 - 20 @ \$0.50 each
Page 21 - + @ \$0.25 each

PART C: Information Requested

☐ CIVIL LAW ☐ GENERAL EQUITY ☐ SPECIAL CIVIL PART

DOCKET NUMBER CASE NAME

DOCUMENTS REQUESTED

☐ SUMMONS ☐ ORDER(S) ☐ COMPLAINT ☐ REQUEST FOR DEFAULT
☐ ANSWER ☐ WARRANT OF SATISFACTION ☐ FINAL JUDGMENT
☐ OTHER (SPECIFY) _____

Certified or Exemplified Copies (extra charge) ☐ YES ☐ NO

JUDICIARY USE ONLY

FOR RECORD REQUESTS OVER \$50

TOTAL EST. COST	DEPOSIT AMOUNT	ESTIMATED BALANCE	DEPOSIT DATE	RECEIVED BY
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DISPOSITION INFORMATION

DELIVERED DATE	DENIED DATE	UNAVAILABLE DATE
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If request is denied or records are unavailable, explain here:

Identification provided for physical custody of file: _____

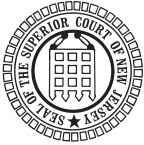
Instructions For Obtaining New Jersey Judiciary Records

NOTE: This form should not be used to request transcripts of court proceedings.
Ask court staff for information about obtaining transcripts.

1. Complete Parts A (optional), B, and C of this form, and deliver it during regular business hours to the appropriate case management office or municipal court. For mail or fax requests, first contact the appropriate case management office or municipal court. A directory of case management offices and municipal courts is available at: www.njcourtsonline.com
2. If your request is for physical inspection of a court file or document rather than a photocopy, you will be asked to provide a government issued identification (for example, a driver's license). If you do not provide such identification your access to the records may be delayed until court staff is available to monitor your inspection of the records.
3. The fees for duplication of a court record in printed/paper form are listed on the front of this form. For superior court records, payment may be made by check, cash, or money order payable to Treasurer, State of New Jersey. For municipal courts, payment may be made by check, cash, or money order payable to that particular municipal court.
4. You may be charged a 50% deposit when a request for copies is estimated to exceed \$50. The record custodian will advise you of any deposit requirements.
5. The record custodian will notify you that he or she grants or denies a request for access to a Judiciary record. In most cases, we can provide access to a record stored on-site the same day. If the record is not readily available, or is stored off-site, the custodian will advise you within 3 business days when the record will be made available, and the estimated cost for providing the record to you.
6. You may be denied immediate access to court records if your request will substantially disrupt court operations.
7. If the Judiciary is unable to comply with your request for access to a court record, the custodian will state the reasons on the request form and send you a signed and dated copy.
8. Information provided on this form may be subject to disclosure under Rules Governing the Courts of the State of New Jersey, *Rule 1:38*.

ATTACHMENT 2

Records Request Form – Criminal Division



NEW JERSEY JUDICIARY
Records Request Form
CRIMINAL DIVISION

See instructions on the reverse side.

PART A: Requestor Information

LAST NAME		MIDDLE INITIAL	FIRST NAME
COMPANY			
ADDRESS			
CITY	STATE	ZIP	EMAIL
DAYTIME TELEPHONE (INCLUDE AREA CODE) EXT.		PREFERRED DELIVERY <input type="checkbox"/> PICK UP <input type="checkbox"/> US MAIL <input type="checkbox"/> ON SITE INSPECT	
SIGNATURE			DATE

PART B: Payment Information

SELECT PAYMENT METHOD
☐ CASH ☐ CHECK ☐ MONEY ORDER

COPY FEES

Pages 1 - 10 @ \$0.75 each
Pages 11 - 20 @ \$0.50 each
Page 21 - + @ \$0.25 each

PART C: Information Requested

NAME OF DEFENDANT		
AKA		
DEFENDANT DATE OF BIRTH	DEFENDANT SSN	INDICTMENT / ACCUSATION / COMPLAINT / MUNICIPAL APPEAL #
<input type="checkbox"/> COPY OF JUDGMENT OF CONVICTION DATE OF SENTENCE _____ SENTENCING JUDGE _____		
<input type="checkbox"/> COPY OF INDICTMENT <input type="checkbox"/> COPY OF DISMISSAL ORDER <input type="checkbox"/> COPY OF PTI POSTPONEMENT ORDER		
<input type="checkbox"/> COPY OF PLEA AGREEMENT <input type="checkbox"/> COPY OF MOTION (SPECIFY MOTION TYPE) _____		
<input type="checkbox"/> OTHER (DESCRIBE) _____		
Certified or Exemplified Copies (extra charge) <input type="checkbox"/> YES <input type="checkbox"/> NO		

JUDICIARY USE ONLY

FOR RECORD REQUESTS OVER \$50

TOTAL EST. COST	DEPOSIT AMOUNT	ESTIMATED BALANCE	DEPOSIT DATE	RECEIVED BY
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DISPOSITION INFORMATION

DELIVERED DATE	DENIED DATE	UNAVAILABLE DATE
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If request is denied or records are unavailable, explain here:

Identification provided for physical custody of file: _____

Instructions For Obtaining New Jersey Judiciary Records

NOTE: This form should not be used to request transcripts of court proceedings.
Ask court staff for information about obtaining transcripts.

1. Complete Parts A (optional), B, and C of this form, and deliver it during regular business hours to the appropriate case management office or municipal court. For mail or fax requests, first contact the appropriate case management office or municipal court. A directory of case management offices and municipal courts is available at: www.njcourtsonline.com
2. If your request is for physical inspection of a court file or document rather than a photocopy, you will be asked to provide a government issued identification (for example, a driver's license). If you do not provide such identification your access to the records may be delayed until court staff is available to monitor your inspection of the records.
3. The fees for duplication of a court record in printed/paper form are listed on the front of this form. For superior court records, payment may be made by check, cash, or money order payable to Treasurer, State of New Jersey. For municipal courts, payment may be made by check, cash, or money order payable to that particular municipal court.
4. You may be charged a 50% deposit when a request for copies is estimated to exceed \$50. The record custodian will advise you of any deposit requirements.
5. The record custodian will notify you that he or she grants or denies a request for access to a Judiciary record. In most cases, we can provide access to a record stored on-site the same day. If the record is not readily available, or is stored off-site, the custodian will advise you within 3 business days when the record will be made available, and the estimated cost for providing the record to you.
6. You may be denied immediate access to court records if your request will substantially disrupt court operations.
7. If the Judiciary is unable to comply with your request for access to a court record, the custodian will state the reasons on the request form and send you a signed and dated copy.
8. Information provided on this form may be subject to disclosure under Rules Governing the Courts of the State of New Jersey, *Rule 1:38*.

ATTACHMENT 3

Records Request Form – Family Division



NEW JERSEY JUDICIARY
Records Request Form
FAMILY DIVISION

See instructions on the reverse side.

PART A: Requestor Information

LAST NAME		MIDDLE INITIAL	FIRST NAME
COMPANY			
ADDRESS			
CITY	STATE	ZIP	EMAIL
DAYTIME TELEPHONE (INCLUDE AREA CODE) EXT.		PREFERRED DELIVERY <input type="checkbox"/> PICK UP <input type="checkbox"/> US MAIL <input type="checkbox"/> ON SITE INSPECT	
SIGNATURE			DATE

PART B: Payment Information

SELECT PAYMENT METHOD

☐ CASH ☐ CHECK ☐ MONEY ORDER

COPY FEES

Pages 1 - 10 @ \$0.75 each
Pages 11 - 20 @ \$0.50 each
Page 21 - + @ \$0.25 each

PART C: Information Requested

NAME OF PLAINTIFF

NAME OF DEFENDANT

DOCKET NUMBER

WHAT DOCUMENT(S) ARE YOU REQUESTING? (E.G. JUDGMENT OF DIVORCE)

Certified or Exemplified Copies (extra charge) ☐ YES ☐ NO

JUDICIARY USE ONLY

FOR RECORD REQUESTS OVER \$50

TOTAL EST. COST	DEPOSIT AMOUNT	ESTIMATED BALANCE	DEPOSIT DATE	RECEIVED BY
-----------------	----------------	-------------------	--------------	-------------

DISPOSITION INFORMATION

DELIVERED DATE	DENIED DATE	UNAVAILABLE DATE
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If request is denied or records are unavailable, explain here:

Identification provided for physical custody of file: _____

Instructions For Obtaining New Jersey Judiciary Records

NOTE: This form should not be used to request transcripts of court proceedings.
Ask court staff for information about obtaining transcripts.

1. Complete Parts A (optional), B, and C of this form, and deliver it during regular business hours to the appropriate case management office or municipal court. For mail or fax requests, first contact the appropriate case management office or municipal court. A directory of case management offices and municipal courts is available at: www.njcourtsonline.com
2. If your request is for physical inspection of a court file or document rather than a photocopy, you will be asked to provide a government issued identification (for example, a driver's license). If you do not provide such identification your access to the records may be delayed until court staff is available to monitor your inspection of the records.
3. The fees for duplication of a court record in printed/paper form are listed on the front of this form. For superior court records, payment may be made by check, cash, or money order payable to Treasurer, State of New Jersey. For municipal courts, payment may be made by check, cash, or money order payable to that particular municipal court.
4. You may be charged a 50% deposit when a request for copies is estimated to exceed \$50. The record custodian will advise you of any deposit requirements.
5. The record custodian will notify you that he or she grants or denies a request for access to a Judiciary record. In most cases, we can provide access to a record stored on-site the same day. If the record is not readily available, or is stored off-site, the custodian will advise you within 3 business days when the record will be made available, and the estimated cost for providing the record to you.
6. You may be denied immediate access to court records if your request will substantially disrupt court operations.
7. If the Judiciary is unable to comply with your request for access to a court record, the custodian will state the reasons on the request form and send you a signed and dated copy.
8. Information provided on this form may be subject to disclosure under Rules Governing the Courts of the State of New Jersey, *Rule 1:38*.

ATTACHMENT 4

Records Request Form – Municipal Division



NEW JERSEY JUDICIARY Records Request Form MUNICIPAL COURT

See instructions on the reverse side.

PART A: Requestor Information

LAST NAME		MIDDLE INITIAL	FIRST NAME
COMPANY			
ADDRESS			
CITY	STATE	ZIP	EMAIL
DAYTIME TELEPHONE (INCLUDE AREA CODE) EXT.		PREFERRED DELIVERY <input type="checkbox"/> PICK UP <input type="checkbox"/> US MAIL <input type="checkbox"/> ON SITE INSPECT	
SIGNATURE			DATE

PART B: Payment Information

SELECT PAYMENT METHOD

☐ CASH ☐ CHECK ☐ MONEY ORDER

COPY FEES

Pages 1 - 10 @ \$0.75 each
Pages 11 - 20 @ \$0.50 each
Page 21 - + @ \$0.25 each

PART C: Information Requested

INDIVIDUAL CASE REQUEST

CASE NUMBER

DEFENDANT NAME

RECORDS REQUESTED
☐ DISPOSITION ☐ COPY ☐ OTHER _____

Certified or Exemplified Copies (extra charge) ☐ YES ☐ NO

MULTIPLE CASES REQUEST

WHAT RECORDS ARE YOU SEEKING

WHEN DO YOU NEED THE INFORMATION

Certified or Exemplified Copies (extra charge) ☐ YES ☐ NO

JUDICIARY USE ONLY

FOR RECORD REQUESTS OVER \$50

TOTAL EST. COST	DEPOSIT AMOUNT	ESTIMATED BALANCE	DEPOSIT DATE	RECEIVED BY
-----------------	----------------	-------------------	--------------	-------------

DISPOSITION INFORMATION

DELIVERED DATE	DENIED DATE	UNAVAILABLE DATE
----------------	-------------	------------------

If request is denied or records are unavailable, explain here:

Identification provided for physical custody of file: _____

Instructions For Obtaining New Jersey Judiciary Records

NOTE: This form should not be used to request transcripts of court proceedings.
Ask court staff for information about obtaining transcripts.

1. Complete Parts A (optional), B, and C of this form, and deliver it during regular business hours to the appropriate case management office or municipal court. For mail or fax requests, first contact the appropriate case management office or municipal court. A directory of case management offices and municipal courts is available at: www.njcourtsonline.com
2. If your request is for physical inspection of a court file or document rather than a photocopy, you will be asked to provide a government issued identification (for example, a driver's license). If you do not provide such identification your access to the records may be delayed until court staff is available to monitor your inspection of the records.
3. The fees for duplication of a court record in printed/paper form are listed on the front of this form. For superior court records, payment may be made by check, cash, or money order payable to Treasurer, State of New Jersey. For municipal courts, payment may be made by check, cash, or money order payable to that particular municipal court.
4. You may be charged a 50% deposit when a request for copies is estimated to exceed \$50. The record custodian will advise you of any deposit requirements.
5. The record custodian will notify you that he or she grants or denies a request for access to a Judiciary record. In most cases, we can provide access to a record stored on-site the same day. If the record is not readily available, or is stored off-site, the custodian will advise you within 3 business days when the record will be made available, and the estimated cost for providing the record to you.
6. You may be denied immediate access to court records if your request will substantially disrupt court operations.
7. If the Judiciary is unable to comply with your request for access to a court record, the custodian will state the reasons on the request form and send you a signed and dated copy.
8. Information provided on this form may be subject to disclosure under Rules Governing the Courts of the State of New Jersey, *Rule 1:38*.

ATTACHMENT 5

Records Request Form – Records Management Center

WHO TO CALL

If you are not sure of the specific information which is required of you, you may call the Center for instructions. The number at the information Center is (609) 777-0092

HOW LONG WILL IT TAKE

From the time your request is received at the Center, it will take five (5) to ten (10) working days to complete your request.

From time to time the copy department becomes backlogged with requests, so leave as much lead time as possible when submitting a request for copies.

METHOD

This office does not handle requests for copies via the telephone. You must submit your requests in writing or if you need copies on an expedited basis a visit to our office will be necessary. To avoid delay in receiving your copies, utilization of a pre-paid private courier such as Federal Express, etc. should meet most of your requirements.

ATTENTION ATTORNEYS

If you have an attorney charge account with Superior Court Finance, you may fax your copy request to the Center and ask in your letter that the fees for copies be charged to your Attorney Charge Account. The fax number is (609) 777-0094

PLACE
STAMP
HERE

SUPERIOR COURT OF NEW JERSEY
RECORDS MANAGEMENT CENTER
P.O. BOX 967
TRENTON, NEW JERSEY 08625-0967

SUPERIOR COURT OF NEW JERSEY

HOW TO OBTAIN A COPY OF A SUPERIOR COURT DOCUMENT



FROM:

Superior Court of New Jersey
Records Management Center
171 Jersey Street
PO Box 967
Trenton, NJ 08625-0967
(609) 777-0092
Hours: M-F 8:30 am

WHAT IS AVAILABLE _____

Copies of pleadings from Superior Court cases from 1948 to the present are available. These include: Law Division/Civil and Special Part Docketed Judgments (DJs); and Chancery/Matrimonial, Foreclosure, General Equity and Probate/Wills.

WHAT IS THE COST _____

Fees for photocopying:

- \$.75 per page for pages 1 through 10
- \$.50 per page for pages 11 through 20
- \$.25 per page for all pages over 20
- \$5.00 minimum charge

Fees for certification:*

- \$5.00 for the first 5 pages
- \$.75 for each page in excess of 5
- \$5.00 minimum charge
- \$10.00 minimum charge certified copy of final Judgment of Divorce.

Other fees include as follows:*

- \$5.00 Exemplification
- \$5.00 Exemplified copy of a Will or Administration Proceeding from a Foreign State

State

* Fees do not include charge for photocopying

Special arrangements can be made for larger cases or high volume requests. Call (609) 777-0082 for details.

Make your check or money order payable to the CLERK OF THE SUPERIOR COURT. If you are not sure what the total charge will be for your copies, simply make the check out for 'NOT MORE THAN TWENTY DOLLARS'. The exact amount will be filled in upon completion of the copy request. If the charge for copies is for more than twenty dollars, you will be notified of the additional cost.

HOW TO ORDER _____

To order copies, simply complete the form which is attached to this brochure. Detach and mail the request along with a self-addressed, stamped envelope and a check or money order to cover the cost of the copies to:

SUPERIOR COURT OF NEW JERSEY
RECORDS MANAGEMENT CENTER
CN-967
Trenton, New Jersey 08625-0967

COPY REQUEST _____

INSTRUCTIONS

Complete this form, detach along dotted line and mail along with the fee and a self-addressed, stamped envelope to the Records Management Center. PLEASE PRINT CLEARLY

PART A: REQUESTOR INFORMATION _____

YOUR
NAME _____

YOUR ADDRESS: _____

☐ Attorney Charge Acct. # _____

YOUR TELEPHONE NO. () -

PART B: CASE INFORMATION _____

DOCKET NO.: _____
(If you do not have a docket no. complete Part C)

COUNTY _____

PLAINTIFF _____

V.

DEFENDANT _____

NOTE: For copies of divorce proceedings, please give married name not the maiden name.

Orders

PART C: SEARCH INFORMATION _____

Court (check one)

- ☐ Law ☐ Matrimonial ☐ Foreclosure
☐ General Equirty ☐ Probate

APPROXIMATE YEAR CASE
STARTED: _____
Or
APPROXIMATE YEARS:

FROM: _____ TO: _____

PART D: WHAT ARE YOU REQUESTING _____

CERTIFIED COPIES

EMPLIFIED COPIES

COPY WHOLE CASE? ☐ YES ☐ NO

If NO, indicate which documents you are requesting by checking off the type of paper. Also indicate in the right hand column the number of copies of each page needed.

DOCUMENT REQUESTED	NO. OF COPIES
<input type="checkbox"/> Answer	
<input type="checkbox"/> Cancel Mortgage	
<input type="checkbox"/> Complaint	
<input type="checkbox"/> Dismissal	
<input type="checkbox"/> Divorce Decree (Judgment of Divorce)	
<input type="checkbox"/> Judgments	
<input type="checkbox"/> Orders	
<input type="checkbox"/> Request for Default	
<input type="checkbox"/> Summons	
<input type="checkbox"/> Warrants of Satisfaction	
<input type="checkbox"/> Wills	
<input type="checkbox"/> Other (specify)	

ATTACHMENT 6

Vicinage Contacts and Record Locations Template

XXX VICINAGE

CONTACTS AND RECORD LOCATIONS

Trial Court Administrator: name
 address
 telephone

Division Managers

Civil Division Manager	
(for civil, general equity, and special civil part)	(xxx) xxx-xxxx
Criminal Division Manager	(xxx) xxx-xxxx
Family Division Manager	(xxx) xxx-xxxx
Municipal Division Manager	(xxx) xxx-xxxx

Location of Records

Criminal Division
 Criminal Case Management Office
 (insert address, phone number here)

Civil Division
 Civil Case Management Office
 (insert address, phone number here)

Special Civil Part
 (insert address, phone number here)

General Equity
 (insert address, phone number here)

Family Division
 Family Case Management Office
 (insert address, phone number here)

Municipal Courts
 (The court in each individual municipality) A complete list is available on the
 Judiciary's website, www.njcourtsonline.com.)

Hours of Access

Superior Court records are available for access in all court divisions from xx:xx A.M. to
xx:xx P.M.

PROCEDURE FOR DEPOSIT & WITHDRAWAL OF FUNDS

SUPERIOR COURT TRUST FUND

The Superior Court Trust Fund is a temporary depository for funds claimed in connection with litigation in the New Jersey Superior Court or of funds to be deposited under the jurisdiction of the New Jersey Supreme Court. The Chief Justice is responsible for the operation of the Fund and has delegated authority to the Clerk of Superior Court for managing the daily activity of the Fund's operations, as well as establishing a system of checks and balances to ensure the integrity of the Fund. This includes review of all orders to deposit or pay out funds. Consequently, the clerk has delegated to the Trust Fund Unit Supervisor the review of all orders to assure compliance with Court Rules, IRS regulations and state statutes.

NOTE TO ATTORNEYS AND *PRO SE* LITIGANTS

You as a New Jersey Attorney or *Pro Se* litigant are responsible for having knowledge of and complying with all applicable rules, statutes and regulations. We are providing information we believe will be helpful to you in depositing funds into and withdrawing funds from court. **You should review all of this information, as well as the applicable rules, statutes and/or regulations before you call the Trust Fund Unit staff with questions.** They will gladly provide clarification if needed.

COURT RULES

The general rules applying to the deposit of funds into court and withdrawal of funds from court are found in *R. 4:57*. In addition, if the funds being withdrawn are surplus funds from a foreclosure action *R. 4:64-3* also applies, while in condemnation actions *R. 4:73-9* is applicable. Anyone depositing or withdrawing funds should familiarize themselves with these rules.

DEPOSITS

With two minor exceptions (unclaimed funds in an Attorney Trust Account per *R. 1:21-6(j)* and cash deposits in lieu of a construction lien bond), no funds may be deposited into court without a court order. These funds must be sent to the Clerk of Superior Court in Trenton (not to the deputy clerks in the counties) and must be in the form of a check made payable to "The Superior Court of New Jersey".

Funds should be sent to the attention of the Trust Fund Unit. When depositing funds you must send the following:

1. Two copies of a signed Order allowing the deposit of funds.
2. A check made payable to the Superior Court of New Jersey in the exact amount specified in the order. If the amount of the check is different for

some valid reason explain in your cover letter why it is different. (NOTE: the check does not have to be certified.)

3. A self-addressed, stamped envelope for mailing your receipt. (NOTE: a receipt is always sent, usually about a week after the deposits.)

WITHDRAWALS

The general rules applying to withdrawal of funds are *R. 4:57-2* and *R. 4:57-5*. If you are withdrawing surplus funds in a foreclosure action, *R. 4:64-3* applies as well, as does *R. 4:73-9* in condemnation actions.

PROPOSED WITHDRAWAL ORDERS

When you are applying to the court to obtain an Order to Withdraw Funds, **you should forward a copy of any motion package or Consent Order to the Trust Fund Unit for verification of the amount on deposit and review of the language in the proposed order.** (A copy of the motion package should be sent to the Trust fund Unit when the original is sent to the court. Proposed consent orders should be sent to the Trust Fund Unit prior to submission to the court.) Failure to do so may delay the desired payment and may require the necessity of an amended order.

Any motion package or proposed consent order sent to us for review should be accomplished by a self-addressed, stamped envelope for the return of the verified Order. This is an enormous help to our staff and we appreciate your cooperation in this matter.

REQUIREMENTS FOR PROCESSING A SIGNED WITHDRAWAL ORDER.

1. Any copy of a signed withdrawal Order sent by anyone other than the court cannot be processed unless it is a certified copy of the order bearing the court seal.
2. If it is not clear on the face of your order that all parties have been notified of or have consented to your application for withdrawal of funds, you must provide us with written documentation evidencing same.
3. If accrued interest is being paid to anyone other than a corporation or a government entity, entirely directly or through an attorney, you must provide a completed IRS form W-9. If the interest is being paid to more than one person, you must indicate what percentage of interest each person is to receive.

4. If an individual who is not a minor is receiving more than \$2,000.00 either directly or through an attorney, you must provide us with a certification from a private judgment search company (nor from the probation department) that the recipient is not a child support judgment debtor. See *N.J.S.A. 2A:17-56.23b*. Please note that there are no exceptions for age or marital status. If the recipient of the funds is in fact a child support judgment debtor, you must obtain a certification showing current child support arrears from the appropriate probation officer so that the Clerk may pay the arrears.

Please note that we cannot process payment if you have not complied with all of the above applicable requirements. If you sent your proposed order for verification and you were sent a notice regarding W-9 and Child Support Judgment Certification, you should send these documents to the Trust Fund Unit as soon as possible so that we have them when we receive the signed order. If they are sent afterwards, it will delay receipt of your payment. Please note also that if you need to send multiple documents, you should send them together whenever possible. If you send information in a manner that requires multiple reviews of your file, it will delay processing of your check and consequently others' checks.

MAILING ADDRESS

All correspondence should be directed to:

Trust Fund Unit
Superior Court of New Jersey
P.O. Box 71
25 Market Street
6th Floor, North Wing
Trenton, N.J. 08625
Attn: Jane C. Rickenbach, Esq.

Please note that any mail sent through the US Postal Service, including certified and U.S. Express Mail, must reference the P.O. Box 971 or we will not receive it. Any mail sent through private carriers must reference the street address.

SURETY BONDS

Any surety bond including *supersedeas bonds* must be submitted to a Judge for approval and should stay with the physical case file in the county. Surety bonds should not be sent to the Trust Fund Unit.

Cash (in the form of a check) deposited in lieu of a surety bond is sent to the Trust Fund Unit. However, with the exception of cash posted in lieu of a surety bond for a

construction lien claim, there must be a court order specifically directing that cash may be posted in lieu of a bond.

See R. 1:13-3 (c). An Order directing a bond to be posted is not sufficient if it does not specifically allow cash in lieu thereof. See the section on “deposits” for deposit requirements.

PROCESSING TIME AND REQUESTS FOR STATUS OF PAYMENT

You should be aware that it generally takes 2-4 weeks from the time we receive a signed order to process a check. Any call to the Trust Fund Unit staff requesting status prior to that time period takes time away from processing and delays payment.