

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to the Rules Governing the Courts of the State of New Jersey are adopted to be effective September 1, 2010.

For the Court,

A handwritten signature in black ink, appearing to read "Stuart Rabner", written in a cursive style.

Chief Justice

Dated: July 23, 2010

The Rules and Appendices Amended and Adopted by this Order Are as Follows:

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1:5-2. Manner of Service

Service upon an attorney of papers referred to in *R. 1:5-1* shall be made by mailing a copy to the attorney at his or her office by ordinary mail, by handing it to the attorney, or by leaving it at the office with a person in the attorney's employ, or, if the office is closed or the attorney has no office, in the same manner as service is made upon a party. Service upon a party of such papers shall be made as provided in *R. 4:4-4* or by registered or certified mail, return receipt requested, and simultaneously by ordinary mail to the party's last known address[;]. [or i] If no address is known, despite diligent effort, [by ordinary mail to the clerk of the court] the filing of papers with the clerk shall be deemed to satisfy that service requirement and there need be no separate service upon the clerk. 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 the diligent effort required by this rule shall be recited in the proof of service required by *R. 1:5-3*. If, however, proof of diligent inquiry as to a party's whereabouts has already been filed within six months prior to service under this rule, a new diligent inquiry need not be made provided the proof of service required by *R. 1:5-3* asserts that the party making service has no knowledge of any facts different from those recited in the prior proof of diligent inquiry.

Note: Source — *R. R. 1:7-12(d), 1:10-10(b), 1:11-2(c), 2:11-2(c), 3:11-1(b), 4:5-2(a)* (first four sentences); amended July 16, 1981 to be effective September 14, 1981; amended July 13, 1994 to be effective September 1, 1994; amended July 28, 2004 to be effective September 1, 2004; amended July 23, 2010 to be effective September 1, 2010.

1:6-2. Form of Motion; Hearing

(a) ...no change.

(b) ...no change.

(c) Civil and Family Part Discovery and Calendar Motions. Every motion in a civil case or a case in the Chancery Division, Family Part, not governed by paragraph (b), involving any aspect of pretrial discovery or the calendar, shall be listed for disposition only if accompanied by a certification stating that the attorney for the moving party has either (1) personally conferred orally or has made a specifically described good faith attempt to confer orally with the attorney for the opposing party in order to resolve the issues raised by the motion by agreement or consent order and that such effort at resolution has been unsuccessful, or (2) advised the attorney for the opposing party by letter, after the default has occurred, that continued non-compliance with a discovery obligation will result in an appropriate motion being made without further attempt to resolve the matter. A motion to extend the time for discovery shall have annexed thereto either a copy of all prior orders [extending] granting or denying an extension of the discovery period or a certification that there have been no such prior orders. The moving papers shall also set forth the date of any scheduled pretrial conference, arbitration proceeding scheduled pursuant to *R. 4:21A*, calendar call or trial, or state that no such dates have been fixed. Discovery and calendar motions shall be disposed of on the papers unless, on at least two days notice, the court specifically directs oral argument on its own motion or, in its discretion, on a party's request. A movant's request for oral argument shall be made either in the moving papers or reply; a respondent's request for oral argument shall be made in the answering papers.

(d) ...no change.

(e) ...no change.

(f) ...no change.

Note: Source — *R.R. 3:11-2, 4:8-5(a)* (second sentence). Amended July 14, 1972 to be effective September 5, 1972; amended November 27, 1974 to be effective April 1, 1975; amended July 24, 1978 to be effective September 11, 1978; former rule amended and redesignated as paragraph (a) and paragraphs (b), (c), (d), and (e) adopted July 16, 1981 to be effective September 14, 1981; paragraph (c) amended July 15, 1982 to be effective September 13, 1982; paragraph (c) amended July 22, 1983 to be effective September 12, 1983; paragraph (b) amended December 20, 1983 to be effective December 31, 1983; paragraphs (a) and (c) amended and paragraph (f) adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (c) amended and paragraph (d) caption and text amended June 29, 1990 to be effective September 4, 1990; paragraph (d) amended July 14, 1992 to be effective September 1, 1992; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 13, 1994 to be effective January 1, 1995; paragraphs (a) and (f) amended January 21, 1999 to be effective April 5, 1999; paragraphs (c) and (d) amended July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraphs (b), (c), and (f) amended July 27, 2006 to be effective September 1, 2006; paragraph (b) caption amended, former text of paragraph (b) captioned and redesignated as subparagraph (b)(1), and new subparagraph (b)(2) adopted July 9, 2008 to be effective September 1, 2008; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

1:13-7. Dismissal of Civil Cases for Lack of Prosecution

(a) ...no change.

(b) ...no change.

(c) [An] The order of dismissal [will enter 60 days from the date of the notice referred to in subsection (a) unless one of the following actions is taken within said 60-day period] required by paragraph (a) shall not be entered if, during the period following the notice of dismissal as therein prescribed, one of the following actions is taken:

(1) a proof of service or acknowledgment of service is filed, if the required action not timely taken was failure to file proof of service or acknowledgment of service with the court;

(2) an answer is filed or a default is requested, if the required action not timely taken was failure to answer or enter default;

(3) a default judgment is obtained, if the required action not timely taken was failure to convert a default request into a default judgment;

(4) a motion is filed by or with respect to a defendant noticed for dismissal. If a motion to remove the defendant from the dismissal list is denied, the defendant will be dismissed without further notice.

(d) ...no change.

Note: Source — *R.R.* 1:30-3(a) (b) (c) (d), 1:30-4. Amended July 7, 1971 to be effective September 13, 1971; former rule redesignated as paragraph (a) and paragraph (b) adopted July 15, 1982 to be effective September 13, 1982; paragraph (b) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; caption and paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a) and (b) amended July 12, 2002 to be effective September 3, 2002; paragraph (a) amended, former paragraph (b) deleted, and new paragraphs (b), (c), and (d) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a) amended July 9, 2008 to be effective September 1, 2008; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

1:13-9 Amicus Curiae; Motion; Grounds for Relief; Briefs

(a) An application for leave to appear as amicus curiae in any court shall be made by motion in the cause stating with specificity the identity of the applicant, the issue intended to be addressed, the nature of the public interest therein and the nature of the applicant's special interest, involvement or expertise in respect thereof. The court shall grant the motion if it is satisfied under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby. The order granting the motion shall define with specificity the permitted extent of participation by the amicus and shall, where appropriate, fix a briefing schedule. [An amicus curiae who has been granted leave to appear in a cause may, without seeking further leave, file a brief in an appeal taken to an court from the judgment therein entered.]

(b) Briefs filed by an amicus curiae in any court shall comply with all applicable rules.

(c) Except as provided in subsection (f), motions for leave to appear as an amicus curiae in the Appellate Division shall be accompanied by the proposed amicus curiae brief and shall be filed on or before the day when the last brief is due from any party.

(d) An amicus curiae who has been granted leave to appear in a cause may, without seeking further leave:

(1) file a brief in an appeal taken to any court from a final judgment or appealable interlocutory order, provided that the brief is filed on or before the day on which the last brief is due from any party;

(2) file a brief in support of or in opposition to a motion for leave to appeal, provided that the brief is filed on or before the day on which the last brief is due from any party;

(3) file a brief in the Supreme Court in support of or in opposition to a petition for certification, provided that the brief is filed on or before the day on which the last brief is due from any party; and

(4) file a brief on the merits after the Supreme Court has granted a petition for certification or a motion for leave to appeal, or after a notice of appeal has been filed, provided that the brief is filed in compliance with the time frames fixed in subsection (e) of this Rule.

(e) An amicus curiae who has not been granted leave to appear in a cause may file a motion for leave to appear in the Supreme Court, provided that the motion is accompanied by the proposed amicus curiae brief. Except as provided in Subsection (f) of this Rule, motions for leave to appear as an amicus curiae in the Supreme Court shall be filed within seventy-five (75) days of the date when the Supreme Court posts on its public website a notice of:

- (1) an order granting certification;
- (2) an order granting leave to appeal; or
- (3) the filing of a notice of appeal.

Untimely motions may be granted by the Supreme Court only on a showing of good cause demonstrated to the satisfaction of the Court.

(f) In the event that the Supreme Court, or the Appellate Division, has directed or permitted the parties to submit briefs in accordance with a designated schedule, an amicus curiae shall file its motion for leave to appear, accompanied with its brief, on or before the date fixed for the last brief due from any party.

Note: Adopted July 16, 1979 to be effective September 10, 1979; caption and text amended July 13, 1994 to be effective September 1, 1994; former text reallocated as paragraphs (a) and (b), paragraph (a) amended, and new paragraphs (c) (d) (e) (f) adopted July 23, 2010 to be effective September 1, 2010.

1:20-1. Disciplinary Jurisdiction; Annual Fee and Registration

(a) . . . no change

(b) Annual Fee. Every attorney admitted to practice law in the State of New Jersey, including all persons holding a plenary license, those admitted pro hac vice in accordance with Rule 1:21-2, those holding a limited license as in-house counsel under Rule 1:27-2, those registered as multijurisdictional practitioners under RPC 5.5(b), [and] those certified as Foreign Legal Consultants under Rule 1:21-9, and those permitted to practice under Rule 1:21-3(c) shall pay annually to the Oversight Committee a sum that shall be determined each year by the Supreme Court. The names of all persons failing to comply with the provisions of this Rule shall be reported to the Supreme Court for inclusion on its Ineligible to Practice Law List.

(c) Annual Registration Statement. To facilitate the collection of the annual fee provided for in paragraph (b), every attorney admitted to practice law in this state, including all persons holding a plenary license, those admitted pro hac vice, those holding a limited license as in-house counsel, those registered as multijurisdictional practitioners, [and] those certified as Foreign Legal Consultants, and those permitted to practice under Rule 1:21-3(c) shall, on or before February 1 of every year, or such other date as the Court may determine, pay the annual fee and file a registration statement with the New Jersey Lawyers' Fund for Client Protection (hereinafter referred to as the Fund). The registration statement shall be in a form prescribed by the Administrative Director of the Courts with the approval of the Supreme Court. As part of the annual registration process, each attorney shall certify compliance with Rule 1:28A. All registration statements shall be filed by the Fund with the Office of Attorney Ethics, which may destroy the registration statements after one year. Each lawyer shall file with the Fund a supplemental statement of any change in the attorney's billing address and shall file with the

Office of Attorney Ethics a supplemental statement of any change in the home and primary bona fide law office addresses, as well as the main law office telephone number previously submitted and the financial institution or the account numbers for the primary trust and business accounts, either prior to such change or within thirty days thereafter. All persons first becoming subject to this rule shall file the statement required by this rule prior to or within thirty days of the date of admission.

The information provided on the registration statement shall be confidential except as otherwise directed by the Supreme Court.

(d) . . . no change

Note: Adopted February 23, 1978, to be effective April 1, 1978. Any matter pending unheard before a County Ethics Committee as of April 1, 1978 shall be transferred, as appropriate, to the District Ethics Committee or the District Fee Arbitration Committee having jurisdiction. Any matter heard or partially heard by a County Ethics Committee by April 1, 1978 shall be concluded by such Ethics Committee and shall be reported on in accordance with these rules; amended July 16, 1981 to be effective September 14, 1981. Caption amended and first two paragraphs amended and redesignated as paragraph (a); new paragraphs (b), (c) and (d) adopted January 31, 1984 to be effective February 15, 1984; paragraph (c) amended November 5, 1986 to be effective January 1, 1987; paragraph (d) amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (c) amended September 15, 1992, to be effective January 1, 1993; caption added to all paragraphs and paragraphs (a), (b), (c), and (d) amended February 8, 1993 to be effective immediately; paragraphs (a), (b) and (c) amended January 31, 1995, to be effective March 1, 1995; paragraph (a) amended July 10, 1998, to be effective September 1, 1998; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; paragraphs (a), (b), (c) and (d) amended July 28, 2004 to be effective September 1, 2004; paragraph (c) amended July 9, 2008 to be effective September 1, 2008; paragraphs (b) and (c) amended July 23, 2010 to be effective September 1, 2010.

1:21-1. Who May Practice; Appearance in Court

(a) ...no change.

(b) ...no change.

(c) Prohibition on [Business] Entities. Except as otherwise provided by paragraph (d) of this rule and by R. 1:21-1A (professional corporations), R. 1:21-1B (limited liability companies), R. 1:21-1C (limited liability partnerships), R. 6:10 (appearances in landlord-tenant actions), R. 6:11 (appearances in small claims actions), R. 7:6-2(a) (pleas in municipal court), R. 7:8-7(a) (presence of defendant in municipal court) and by R. 7:12-4(d) (municipal court violations bureau), an [business] entity, however formed and for whatever purpose, other than a sole proprietorship shall neither appear nor file any paper in any action in any court of this State except through an attorney authorized to practice in this State.

(d) ...no change.

(e) ...no change.

(f) ...no change.

Note: Source — R.R. 1:12-4(a) (b) (c) (d) (e) (f). Paragraph (c) amended by order of December 16, 1969 effective immediately; paragraphs (a) and (c) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (a) amended September 21, 1981 to be effective immediately; paragraph (c) amended and paragraph (d) adopted July 15, 1982 to be effective September 13, 1982; paragraph (a) amended August 13, 1982 to be effective immediately; paragraph (e) adopted July 22, 1983 to be effective September 12, 1983; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended and paragraph (d) caption and text amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended and paragraph (e)(8) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (c), (e), and (e)(7) amended, and paragraph (e)(9) added July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (e) amended June 28, 1996 to be effective September 1, 1996; paragraph (c) amended November 18, 1996 to be effective January 1, 1997; paragraph (c) amended January 5, 1998 to be effective February 1, 1998; paragraph (a) amended, former paragraphs (d) and (e) redesignated as paragraphs (e) and (f), and new

paragraph (d) adopted July 10, 1998 to be effective September 1, 1998; closing paragraph amended July 5, 2000 to be effective September 5, 2000; paragraph (f) amended and new paragraph (f)(11) added July 12, 2002 to be effective September 3, 2002; paragraph (a) amended November 17, 2003 to be effective January 1, 2004; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraph (e) caption and text amended July 27, 2006 to be effective September 1, 2006; paragraph (f) amended and paragraph (g) adopted July 16, 2009 to be effective September 1, 2009; paragraph (c) caption and text amended July 23, 2010 to be effective September 1, 2010.

1:28-2. Payment to the Fund; Enforcement

(a) Generally. Except as hereinafter provided, each holder of a plenary license to practice law in the State of New Jersey shall pay annually to the treasurer of the Fund a sum that shall be determined each year by the Supreme Court. An attorney who makes payment after February 1 of the billing year, or such other date as the Court may determine, but before being placed on the Ineligible List shall be subject to a late fee as set forth in Rule 1:20-1(d), which shall be shared equally with the Disciplinary Oversight Committee. The treasurer shall annually report the names of all attorneys failing to comply with the provisions of this Rule to the Supreme Court for inclusion on the list of those attorneys deemed ineligible to practice law in New Jersey by order of the Court. An attorney shall be reinstated automatically to the practice of law without further order of the Court on filing with the Fund the annual registration statement for the current year together with the annual payment, the late fee, any arrears due from prior years, and a reinstatement fee of \$50 if the attorney's name is being removed from one calendar year's Ineligible List or \$100 if the attorney's name is being removed from two or more calendar year's Lists.

All persons admitted pro hac vice in accordance with Rule 1:21-2, those holding limited licenses as in-house counsel under R. 1:27-2, those registered as multijurisdictional practitioners under RPC 5.5(b), [and] those certified as Foreign Legal Consultants under R. 1:21-9, and those permitted to practice under R. 1:21-3(c) shall also make the same annual payment described above subject to the same late fees and reinstatement from ineligible list fees. However, such persons shall not be entitled to the exemptions provided hereinafter.

For the purpose of annual assessment all members of the Bar, including those admitted pro hac vice, those holding limited licenses as in-house counsel, those registered as

1:28-3. Payment of Claims

(a) Eligible Claims. The Trustees may consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state or an attorney (i) admitted pro hac vice, (ii) holding limited license as in-house counsel, (iii) registered as multijurisdictional practitioner, (iv) certified as a foreign legal consultant or (v) permitted to practice under Rule 1:21-3(c), if the attorney was acting either as an attorney or fiduciary, provided that:

(1) . . . no change

(2) . . . no change

(3) . . . no change

(4) . . . no change

(5) . . . no change

(b) . . . no change

(c) . . . no change

(d) . . . no change

(e) . . . no change

(f) . . . no change

Note: Source-R.R. 1:22A-3(a) (b) (c) (d) (e) (f). Paragraph (a)(2) amended June 24, 1974 to be effective immediately; paragraph (a) amended and paragraph (a)(5) adopted January 31, 1984 to be effective February 15, 1984; paragraph (a)(1), (2), and (5) amended, former paragraph (a)(4) deleted, paragraph (a)(3) redesignated as paragraph (a)(4), new paragraph (a)(3) adopted; paragraph (b) amended and paragraph (b)(5) adopted June 29, 1990 to be effective September 4, 1990; paragraphs (a) and (a)(1) amended July 14, 1992 to be effective September 1, 1992; introductory paragraph and paragraphs (a)(4) and (f) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

1:28B-1. Board of Trustees; Purpose; Administration; Annual Assessment

(a) . . . no change

(b) . . . no change

(c) . . . no change

(d) . . . no change

(e) Annual Assessment. Every attorney admitted to practice law in the State of New Jersey, including those holding a plenary license, [and] those admitted pro hac vice in accordance with Rule 1:21-2, those holding a limited license as in-house counsel under Rule 1:27-2, those registered as multijurisdictional practitioners under RPC 5.5(b), those certified as Foreign Legal Consultants under Rule 1:21-9, and those permitted to practice under Rule 1:21-3(c), shall be assessed and shall pay annually to the Lawyers Assistance Program a fee in a sum that shall be determined each year by the Supreme Court. All fees so paid shall be used for the administration of the Lawyers Assistance Program. This assessment shall be collected administratively in the same manner as and subject to the same exemptions as provided under Rule 1:28-2, except that no such fee shall be assessed to attorneys during the first calendar year of their admission. The fee shall be assessed to all attorneys in their second through forty-ninth calendar year of admission. The names of any and all attorneys failing to comply with the provisions of this rule shall be reported to the Supreme Court for inclusion on its Ineligible to Practice Law List. Any attorney who fails to pay the annual assessment for seven consecutive years shall be subject to the license revocation procedures contained in Rule 1:28-2(c).

Note: Adopted July 15, 1999, to be effective September 1, 1999; caption amended and new paragraph (e) added July 12, 2002 to be effective September 3, 2002; paragraph (b) amended February 4, 2003 to be effective immediately; paragraph (e) amended July 28, 2004 to be effective September 1, 2004; paragraph (a) amended December 5, 2006 to be effective immediately; paragraph (e) amended November 27, 2007 to be effective immediately; paragraph (e) amended July 23, 2010 to be effective September 1, 2010.

1:36-3 Unpublished Opinions

No unpublished opinion shall constitute precedent or be binding upon any court. Except for appellate opinions not approved for publication that have been reported in an authorized administrative law reporter, and except to the extent required by *res judicata*, collateral estoppel, the single controversy doctrine or any other similar principle of law, no unpublished opinion shall be cited by any court. No unpublished opinion shall be cited to any court by counsel unless the court and all other parties are served with a copy of the opinion and of all [other relevant] contrary unpublished opinions known to counsel [including those adverse to the position of the client].

Note: Adopted July 16, 1981 to be effective September 14, 1981; caption and rule amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002; amended July 23, 2010 to be effective September 1, 2010.

2:2-3. Appeals to the Appellate Division from Final Judgments, Decisions, Actions and from Rules; Tax Court

(a) As of Right. Except as otherwise provided by *R. 2:2-1(a)(3)* (final judgments appealable directly to the Supreme Court), and except for appeals from a denial by the State Police of an application to make a gun purchase under a previously issued gun purchaser card, which appeals shall be taken to the designated gun permit judge in the vicinage, appeals may be taken to the Appellate Division as of right

(1) ...no change.

(2) ...no change.

(3) in such cases as are provided by law.

Final judgments of a court, for appeal purposes, shall also include those referred to by *R. 3:28(f)* (order enrolling defendant into the pretrial intervention program over the objection of the prosecutor), *R. 3:26-3* (material witness order), *R. 4:42-2* (certification of interlocutory order), *R. 4:53-1* (order appointing statutory or liquidating receiver), *R. 5:8-6* (final custody determination in bifurcated matrimonial action), and *R. 5:10-6* (order on preliminary hearing in adoption action). An order granting or denying a motion to extend the time to file a notice of tort claim pursuant to *N.J.S.A. 59:8-9*, whether entered in the cause or by a separate action, and an order compelling arbitration, whether the action is dismissed or stayed, shall also be deemed a final judgment of the court for appeal purposes.

(b) ...no change.

Note: Source — *R.R. 2:2-1(a) (b) (c) (d) (f) (g)*, 2:2-4, 2:12-1, 3:10-11, 4:88-7, 4:88-8(a) (first sentence), 4:88-10 (first sentence), 4:88-14, 6:3-11(a). Paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended November 27, 1974 to be effective April 1, 1975; caption and paragraph (a) amended June 20, 1979 to be effective July 1,

1979; paragraph (a) amended July 8, 1980 to be effective July 15, 1980; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(1) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended December 20, 1983 to be effective December 31, 1983; paragraph (b) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (a)(3) amended July 23, 2010 to be effective September 1, 2010.

2:5-6. Appeals From Interlocutory Orders, Decisions and Actions

(a) ...no change.

(b) ...no change.

(c) Notice to the Trial Judge or Officer; Findings. A party filing a motion for leave to appeal from an interlocutory order shall serve a copy thereof on the trial judge or officer who entered the order. If the judge or officer has not theretofore filed a written statement of reasons or if no verbatim record was made of any oral statement of reasons, the judge or officer shall, within 5 days after receiving the motion, file and transmit to the clerk of the Appellate Division and the parties a written statement of reasons for the disposition [and may also, within said time, comment on whether the motion for leave to appeal should be granted]. The statement may also comment on whether the motion for leave to appeal should be granted on the ground, among others, that a controlling question of law not theretofore addressed by an appellate court of this state is involved and that the grant of leave to appeal may materially advance the ultimate resolution of the matter. Any statement of reasons previously made may also be amplified.

Note: Source — *R.R.* 1:2-3(b), 2:2-3(a) (second sentence), 4:53-1 (sixth sentence), 4:61-1(d). Paragraphs (a) and (c) amended July 7, 1971 to be effective September 13, 1971; paragraphs (a) and (c) amended July 16, 1981 to be effective September 14, 1981; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

4:4-2. Summons: Form

Except as otherwise provided by R. 5:4-1(b) (summary proceedings in family actions), the face of the summons shall be in the form prescribed by Appendix XII-A to these Rules. It shall be in the name of the State, signed in the name of the Superior Court Clerk and directed to the defendant. It shall contain the name of the court and the plaintiff and the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to serve an answer upon the plaintiff or plaintiff's attorney, and shall notify the defendant that if he or she fails to answer, judgment by default may be rendered for the relief demanded in the complaint. It shall also inform the defendant of the necessity to file an answer and proof of service thereof with the deputy clerk of the Superior Court in the county of venue, except in mortgage and tax foreclosure actions an answer shall be filed with the Clerk of the Superior Court in Trenton unless and until the action is deemed contested and the papers have been sent by the Clerk to the county of venue in which event an answer shall be filed with the deputy clerk of the Superior Court in the county of venue. If the defendant is an individual resident in this state, the summons shall advise that if he or she is unable to obtain an attorney, he or she may communicate with the Lawyer Referral Service of the county of his or her residence, or the county in which the action is pending, or, if there is none in either county, the Lawyer Referral Service of an adjacent county. The summons shall also advise defendant that if he or she cannot afford an attorney, he or she may communicate with the Legal Services Office of the county of his or her residence or the county in which the action is pending or the Legal Services of New Jersey statewide toll free hotline at 1-888-LSNJ-LAW (1-888-576-5529). If the defendant is an individual not resident in this State, the summons shall similarly advise him or her, directing the defendant, however, to the appropriate agency in the county in which

the action is pending. The reverse side or second page of the summons shall contain a current listing, by county, of telephone numbers of the Legal Services Office and the Lawyer Referral Office serving each county and the Legal Services of New Jersey statewide toll free hotline at 1-888-LSNJ-LAW (1-888-576-5529), which list shall be updated regularly by the Administrative Office of the Courts and made available to legal forms publishers and to any person requesting such list.

Note: Source — *R.R. 4:4-2*; amended November 27, 1974 to be effective April 1, 1975; amended July 29, 1977 to be effective September 6, 1977; amended July 21, 1980 to be effective September 8, 1980; amended July 16, 1981 to be effective September 14, 1981; amended December 20, 1983 to be effective December 31, 1983; amended June 29, 1990 to be effective September 4, 1990; amended July 13, 1994 to be effective September 1, 1994; amended June 28, 1996 to be effective September 1, 1996; amended July 10, 1998 to be effective September 1, 1998; amended July 23, 2010 to be effective September 1, 2010.

4:4-4. Summons; Personal Service; *In Personam* Jurisdiction

Service of summons, writs and complaints shall be made as follows:

(a) ...no change.

(b) Obtaining *In Personam* Jurisdiction by Substituted or Constructive Service.

(1) By Mail or Personal Service Outside the State. If it appears by affidavit satisfying the requirements of R. 4:4-5[(c)(2)](b) that despite diligent effort and inquiry personal service cannot be made in accordance with paragraph (a) of this rule, then, consistent with due process of law, *in personam* jurisdiction may be obtained over any defendant as follows:

(A) ...no change.

(B) ...no change.

(C) ...no change.

(2) ... no change.

(3) ...no change.

(c) ...no change.

Note: Source — R.R. 4:4-4. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971; paragraphs (a) and (b) amended July 14, 1972 to be effective September 5, 1972; paragraph (f) amended July 15, 1982 to be effective September 13, 1982; paragraph (e) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraphs (a), (f) and (g) amended November 5, 1986 to be effective January 1, 1987; paragraph (i) amended November 2, 1987 to be effective January 1, 1988; paragraph (e) amended November 7, 1988 to be effective January 2, 1989; paragraphs (a) and (b) amended July 14, 1992 to be effective September 1, 1992; text deleted and new text substituted July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a)(3), (b)(1)(A), (b)(1)(C), and (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (a) amended July 9, 2008 to be effective September 1, 2008; paragraph (b)(1) amended July 23, 2010 to be effective September 1, 2010.

4:4-5. Summons; Service on Absent Defendants; *In Rem* or Quasi *In Rem* Jurisdiction

(a) Methods of Obtaining *In Rem* Jurisdiction. Whenever, in actions affecting specific property, or any interest therein, or any res within the jurisdiction of the court, or in matrimonial actions over which the court has jurisdiction, wherein it shall appear by affidavit of the plaintiff's attorney or other person having knowledge of the facts, that a defendant cannot, after diligent inquiry as required by this rule, be served within the State, service may, consistent with due process of law, be made by any of the following four methods:

[(a)](1) personal service outside this State as prescribed by R. 4:4-4(b)(1)(A) and (B); or

[(b)](2) service by mail as prescribed by R. 4:4-4(b)(1)(C); or

[(c)](3) by publication of a notice to absent defendants once in a newspaper published or of general circulation in the county in which the venue is laid; and also by mailing, within 7 days after publication, a copy of the notice as herein provided and the complaint to the defendant, prepaid, to the defendant's residence or the place where the defendant usually receives mail, unless it shall appear by affidavit that such residence or place is unknown, and cannot be ascertained after inquiry as herein provided or unless the defendants are proceeded against as unknown owners or claimants pursuant to R. 4:26-5(c). If defendants are proceeded against pursuant to R. 4:26-5(c), a copy of the notice shall be posted upon the lands affected by the action within 7 days after publication. The notice of publication to absent defendants required by this rule shall be in the form of a summons, without a caption. The top of the notice shall include the docket number of the action, the court, and county of venue. The notice shall state briefly:

[(1)](A) the object of the action the name of the plaintiff and defendant followed by *et al.*, if there are additional parties, the name of the person or persons to whom the notice is addressed, and the basis for joining such person as a defendant; and

[(2)](B) if the action concerns real estate, the municipality in which the property is located, its street address, if improved, or the street on which it is located, if unimproved, and its tax map lot and block numbers; and

[(3)](C) if the action is to foreclose a mortgage, tax sale certificate, or lien of a condominium or homeowners association, the parties to the instrument and the date thereof, and the recording date and book and page of a recorded instrument; and

[(4)](D) the information required by R. 4:4-2 regarding the availability of Legal Services and Lawyer Referral Services together with telephone numbers of the pertinent offices in the vicinage in which the action is pending or the property is located; or

[(d)](4) as may be provided by court order.

(b) Contents of Affidavit of Inquiry. The inquiry required by this rule shall be made by the plaintiff, plaintiff's attorney actually entrusted with the conduct of the action, or by the agent of the attorney; it shall be made of any person who the inquirer has reason to believe possesses knowledge or information as to the defendant's residence or address or the matter inquired of; the inquiry shall be undertaken in person or by letter enclosing sufficient postage for the return of an answer; and the inquirer shall state that an action has been or is about to be commenced against the person inquired for, and that the object of the inquiry is to give notice of the action in order that the person may appear and defend it. The affidavit of inquiry shall be made by the inquirer fully specifying the inquiry made, of what persons and in what manner, so that by the facts stated therein it may appear that diligent inquiry has been made for the purpose of effecting actual notice.

Note: Source — R.R. 4:4-5(a)(b)(c)(d), 4:30-4(b) (second sentence). Paragraph (c) amended July 7, 1971 to be effective September 13, 1971; paragraph (c) amended July 14, 1972

to be effective September 5, 1972; amended July 24, 1978 to be effective September 11, 1978; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraphs (a) (b) (c) (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended June 28, 1996 to be effective September 1, 1996; introductory paragraph amended, paragraph (c) amended, and portion of paragraph (c) relocated as closing paragraph of rule July 9, 2008 to be effective September 1, 2008; introductory paragraph designated as paragraph (a), paragraph (a) caption adopted, former paragraphs (a), (b), and (c) redesignated as subparagraphs (a)(1), (a)(2), and (a)(3), former subparagraphs (c)(1), (c)(2), (c)(3), and (c)(4) redesignated as subparagraphs (a)(3)(A), (a)(3)(B), (a)(3)(C), and (a)(3)(D), former paragraph (d) redesignated as subparagraph (a)(4), concluding paragraph designated as paragraph (b), and paragraph (b) caption adopted July 23, 2010 to be effective September 1, 2010.

4:4-7. Return

The person serving the process shall make proof of service thereof on the original process and on the copy. Proof of service shall be promptly filed with the court within the time during which the person served must respond thereto either by the person making service or by the party on whose behalf service is made. The proof of service, which shall be in a form prescribed by the Administrative Director of the Courts, shall state the name of the person served and the place, mode and date of service, and a copy thereof shall be forthwith furnished plaintiff's attorney by the person serving process. If service is made upon a member of the household pursuant to R. 4:4-4 that person's name shall be stated in the proof or, if such name cannot be ascertained, the proof shall contain a description of the person upon whom service was made. If service is made by a person other than a sheriff or a court appointee, proof of service shall be by similar affidavit which shall include the facts of the affiant's diligent inquiry regarding defendant's place of abode, business or employment. If service is made by mail, the party making service shall make proof thereof by affidavit which shall also include the facts of the failure to effect personal service and the facts of the affiant's diligent inquiry to determine defendant's place of abode, business or employment. With the proof shall be filed the affidavit or affidavits of inquiry, if any, required by R. 4:4-4 and R. 4:4-5. Where service is made by registered or certified mail and simultaneously by regular mail, the return receipt card, or the printout of the electronic confirmation of delivery, which shall include an image of the recipient's signature, provided by the U.S. Postal Service, or the unclaimed registered or certified mail shall be filed as part of the proof. Failure to make proof of service does not affect the validity of service.

Note: Source — R.R. 4:4-7. Amended July 14, 1972 to be effective September 5, 1972; amended June 29, 1990 to be effective September 4, 1990; amended July 14, 1992 to be effective

September 1, 1992; amended July 13, 1994 to be effective September 1, 1994; amended July 10, 1998 to be effective September 1, 1998; amended July 12, 2002 to be effective September 3, 2002; amended July 23, 2010 to be effective September 1, 2010.

4:6-2. How Presented

Every defense, legal or equitable, in law or fact, to a claim for relief in any complaint, counterclaim, cross-claim, or third-party complaint shall be asserted in the answer thereto, except that the following defenses, unless otherwise provided by R. 4:6-3, may at the option of the pleader be made by motion, with briefs: (a) lack of jurisdiction over the subject matter, (b) lack of jurisdiction over the person, (c) insufficiency of process, (d) insufficiency of service of process, (e) failure to state a claim upon which relief can be granted, (f) failure to join a party without whom the action cannot proceed, as provided by R. 4:28-1. If a motion is made raising any of these defenses, it shall be made before pleading if a further pleading is to be made. No defense or objection is waived by being joined with one or more other defenses in an answer or motion. Special appearances are superseded. If, on a motion to dismiss based on the defense numbered (e), matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided by R. 4:46, and all parties shall be given reasonable opportunity to present all material pertinent to such a motion.

Note: Source — *R.R. 4:12-2* (first, second and fourth sentences); amended July 23, 2010 to be effective September 1, 2010.

4:11-1. Before Action

(a) ... no change

(b) Notice and Service. At least 20 days before the date of hearing the petitioner shall serve upon each person named in the petition as an expected adverse party, in the manner provided by R. 4:4-4 and R. [4:4-5(a)] 4:4-5(a)(1), a notice, with a copy of the petition attached, stating the time and place of the application for the order described in the petition. If it appears to the court after diligent inquiry that such service cannot be made, the court may order service by publication or otherwise, and shall appoint an attorney to represent persons so served, who, if such persons are not otherwise represented, may cross-examine the deponent. Such attorney's compensation may be fixed by the court and charged to the petitioner. The provisions of R. 4:26-2 apply if any expected adverse party is a minor or mentally incapacitated person.

(c) ... no change.

(d) ... no change.

Note: Source-R.R. 4:17-1. Paragraphs (c) and (d) amended July 14, 1972 to be effective September 5, 1972; paragraphs (a) and (c) amended July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; paragraph (b) amended July 23, 2010 to be effective September 1, 2010.

4:18-1. Production of Documents, Electronically Stored Information, and Things and Entry Upon Land for Inspection and Other Purposes; Pre-Litigation Discovery

(a) ...no change.

(b) Procedure; Continuing Obligation; Failure to Respond; Objections; Motions.

(1) Procedure for Request. The request may, without leave of court, be served on the plaintiff after commencement of the action and on any other party with or after service of the summons and complaint on that party. A copy of the request shall also be simultaneously served on all other parties to the action. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form or forms in which electronically stored information is to be produced.

(2) Procedure for Response. The party on whom the request is served shall serve a written response within 35 days after the service of the request, except that a defendant may serve a response within 50 days after service of the summons and complaint on that defendant. On motion, the court may allow a shorter or longer time. The written response[, without documentation annexed but which shall be made available to all parties on request, shall be served by the party to whom the request was made on all other parties to the action. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, including an objection to the requested form or forms for producing electronically stored information, stating the reasons for objection. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. If objection is made to the requested form or forms

for producing electronically stored information or if no form was specified in the request, the responding party shall state the form or forms it intends to use. The party submitting the request may move for an order of dismissal or suppression or an order to compel pursuant to R. 4:23-5 with respect to any objection to or other failure to respond to the request or any part thereof or any failure to permit inspection as requested. If a party who has furnished a written response to a request to produce or who has supplied documents in response to a request to produce thereafter obtains additional documents that are responsive to the request, an amended written response and production of such documents, as appropriate, shall be served promptly.] shall be made by the party upon whom it is served if an individual, or, if a governmental, commercial, or charitable entity, by an officer or agent thereof. The person making the response shall swear or certify in the form prescribed by paragraph (c) of this rule that it is complete and accurate based on personal knowledge and/or upon information if provided by others, whose identity and source of knowledge shall be disclosed. The written response shall be served on the requesting party and a copy on all other parties. The written response shall either include the requested documents or other material or state, with respect to each item or category, that inspection and related activities will be permitted as requested. If the written response provides documents to the requesting party, those documents shall be provided to or made available to any other party upon request.

Unless the parties otherwise agree, or the court otherwise orders:

[(1)](A) a party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request;

[(2)](B) if a request does not specify the form or forms for producing electronically stored information, a responding party shall produce the information in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable; and

[(3)](C) a party need not produce the same electronically stored information in more than one form.

(3) Continuing Obligation. If a party who has furnished a written response to a request to produce or who has supplied documents in response to a request to produce thereafter obtains additional documents that are responsive to the request, a supplemental written response and production of such documents, as appropriate, shall be served promptly.

(4) Objections; Failure to Respond; Motions. General objections to the request as a whole are not permitted and shall be disregarded by the court and adverse parties. The party upon whom the request is served may, however, object to a request on specific grounds and, if on the ground of privilege or accessibility of electronically stored information, the objection shall be made in accordance with R. 4:10-2(e) and (f) respectively. The requesting party may move for an order of dismissal or suppression or an order to compel pursuant to R. 4:23-5 with respect to any objection to or other failure to respond to the request or any part thereof or any failure to permit inspection as requested. The provisions of R. 4:23-1(c) apply to the award of expenses incurred in relation to motions made pursuant to this rule.

(c) Certification or Affidavit of Completeness. The person responding to the request shall submit with the response a certification stating or affidavit averring as follows:

I hereby certify (or aver) that I have reviewed the document production request and that I have made or caused to be made a good faith search for documents responsive to the request. I further certify (or aver) that as of this date, to the best of my knowledge and information, the

production is complete and accurate based on () my personal knowledge and/or () information provided by others. I acknowledge my continuing obligation to make a good faith effort to identify additional documents that are responsive to the request and to promptly serve a supplemental written response and production of such documents, as appropriate, as I become aware of them. The following is a list of the identity and source of knowledge of those who provided information to me:

(d) [(c)] Persons Not Parties. This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land. Pre-litigation discovery within the scope of this rule may also be sought by petition pursuant to R. 4:11-1.

Note: Source — *R.R. 4:24-1*. Former rule deleted and new *R. 4:18-1* adopted July 14, 1972 to be effective September 5, 1972; rule caption and paragraph (c) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; caption and paragraphs (a) and (b) amended July 27, 2006 to be effective September 1, 2006; paragraph (b) caption amended, paragraph (b) text reallocated and captioned as subparagraphs (b)(1) and (b)(2), subparagraph (b)(2) amended, new subparagraphs (b)(3) and (b)(4) adopted, former paragraph (c) redesignated as paragraph (d), and new paragraph (c) caption and text adopted July 23, 2010 to be effective September 1, 2010.

4:21A-4 Conduct of Hearing

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) ...no change.

(e) ...no change.

(f) Failure to Appear. An appearance on behalf of each party is required at the arbitration hearing. If the party claiming damages does not appear, that party's pleading shall be dismissed. If a party defending against a claim of damages does not appear, that party's pleading shall be stricken, the arbitration shall proceed and the non-appearing party shall be deemed to have waived the right to demand a trial de novo. Relief from any order entered pursuant to this rule shall be granted only on motion showing good cause and on such terms as the court may deem appropriate, including litigation expenses and [counsel] attorney's fees incurred for services directly related to the non-appearance.

Note: Adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a) and (b) amended, and new paragraph (f) adopted July 5, 2000 to be effective September 5, 2000; paragraph (f) amended July 23, 2010 to be effective September 1, 2010.

4:23-5 Failure to Make Discovery

(a) Dismissal.

(1) Without Prejudice. If a demand for discovery pursuant to *R. 4:17*, *R. 4:18-1*, or *R. 4:19* is not complied with and no timely motion for an extension or a protective order has been made, the party entitled to discovery may, except as otherwise provided by paragraph (c) of this rule, move, on notice, for an order dismissing or suppressing the pleading of the delinquent party. The motion shall be supported by an affidavit reciting the facts of the delinquent party's default and stating that the moving party is not in default in any discovery obligations owed to the delinquent party. Unless good cause for other relief is shown, the court shall enter an order of dismissal or suppression without prejudice. Upon being served with the order of dismissal or suppression without prejudice, counsel for the delinquent party shall forthwith serve a copy of the order on the client by regular and certified mail, return receipt requested, accompanied by a notice in the form prescribed by Appendix II-A of these rules, specifically explaining the consequences of failure to comply with the discovery obligation and to file and serve a timely motion to restore. If the delinquent party is appearing pro se, service of the order and notice hereby required shall be made by counsel for the moving party. The delinquent party may move on notice for vacation of the dismissal or suppression order at any time before the entry of an order of dismissal or suppression with prejudice. The motion shall be supported by affidavit reciting that the discovery asserted to have been withheld has been fully and responsively provided and shall be accompanied by payment of a \$100 restoration fee to the Clerk of the Superior Court, made payable to the "Treasurer, State of New Jersey," if the motion to vacate is made within 30 days after entry of the order of dismissal or suppression, or a \$300 restoration fee if the motion is made thereafter. If, however, the motion is not made within 90 days after entry

of the order of dismissal or suppression, the court may also order the delinquent party to pay sanctions or [counsel] attorney's fees and costs, or both, as a condition of restoration.

(2) ...no change.

(3) General Requirements. All motions made pursuant to this rule shall be accompanied by an appropriate form of order. All affidavits in support of relief under paragraph (a)(1) shall include a representation of prior consultation with or notice to opposing counsel or pro se party as required by R. 1:6-2(c). If the attorney for the delinquent party fails to timely serve the client with the original order of dismissal or suppression without prejudice, fails to file and serve the affidavit and the notifications required by this rule, or fails to appear on the return date of the motion to dismiss or suppress with prejudice, the court shall, unless exceptional circumstances are demonstrated, proceed by order to show cause or take such other appropriate action as may be necessary to obtain compliance with the requirements of this rule. If the court is required to take action to ensure compliance or the motion for dismissal or suppression with prejudice is denied because of extraordinary circumstances, the court may order sanctions or [counsel] attorney's fees and costs, or both. An order of dismissal or suppression shall be entered only in favor of the moving party.

(b) ...no change.

(c) ...no change.

Note: Source — R.R. 4:23-6(c)(f), 4:25-2 (fourth sentence); paragraph (a) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) caption amended and subparagraphs (a)(1) captioned and amended, and (a)(2) and (3) captioned and adopted, June 29, 1990 to be effective September 4, 1990; paragraph (a)(3) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(1) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; caption amended, paragraphs (a)(1) and (a)(2) amended, and new paragraph (a)(4) adopted July 5, 2000 to be effective September 5, 2000; paragraph (a)(1) amended and new paragraph (c) added July 12, 2002 to be effective September 3, 2002; paragraph (a)(1)

amended and paragraph (a)(4) deleted July 27, 2006 to be effective September 1, 2006;
paragraphs (a)(1) and (a)(2) amended July 9, 2008 to be effective September 1, 2008;
subparagraphs (a)(1) and (a)(3) amended July 23, 2010 to be effective September 1, 2010.

4:24-1. Time for Completion of Discovery

(a) ...no change.

(b) ...no change.

(c) Extensions of Time. The parties may consent to extend the time for discovery for an additional 60 days by stipulation filed with the court or by submission of a writing signed by one party and copied to all parties, representing that all parties have consented to the extension. A consensual extension of discovery must be sought prior to the expiration of the discovery period. If the parties do not agree or a longer extension is sought, a motion for relief shall be filed with the Civil Presiding Judge or designee in Track I, II, and III cases and with the designated managing judge in Track IV cases, and made returnable prior to the conclusion of the applicable discovery period. The movant shall append to such motion copies of all previous orders granting or denying an extension of discovery or a certification stating that there are none. On restoration of a pleading dismissed pursuant to *Rule* 1:13-7 or *Rule* 4:23-5(a)(1) or if good cause is otherwise shown, the court shall enter an order extending discovery [and specifying the date by which discovery shall be completed. The extension order may describe the discovery to be completed and such other terms and conditions as may be appropriate]. Any proposed form of extension order shall describe the discovery to be completed, set forth proposed dates for completion, and state whether the adverse parties consent. Any order of extension may include such other terms and conditions as appropriate. No extension of the discovery period may be permitted after an arbitration or trial date is fixed, unless exceptional circumstances are shown.

(d) ... no change.

Note: Source — *R.R.* 4:28(a)(d); amended July 13, 1994 to be effective September 1, 1994; amended January 21, 1999 to be effective April 5, 1999; caption amended, text amended

and designated as paragraph (a), new paragraphs (b), (c), and (d) adopted July 5, 2000 to be effective September 5, 2000; corrective amendment to paragraph (d) adopted February 26, 2001 to be effective immediately; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 27, 2006 to be effective September 1, 2006; paragraphs (b) and (c) amended July 9, 2008 to be effective September 1, 2008; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

4:26-5. Unknown Defendants: In Rem Actions

(a) ... no change.

(b) ... no change.

(c) Designation of Unknown Owner or Claimant. When it shall appear by the affidavit of inquiry required by R. [4:4-5(c)] 4:4-5(a)(3) that the affiant has been unable to ascertain the name or names of any unknown owner or claimant, such unknown owner or claimant may be made a party defendant and shall be sufficiently described for all purposes including service of process by the designation "Unknown Owner (or Unknown Claimant), his or her heirs, devisees and personal representatives, and his, hers, their or any of their successors in right, title and interest." Where title to real property or an interest therein or a lien or encumbrance thereon is involved, the inquiry shall include, and the affidavit of inquiry shall recite, reasonable diligence in searching the title, or having it searched, for a period of 60 years immediately prior to the commencement of the action. If such search does not disclose the name of a person who it is alleged or claimed owns the same or a part thereof, or some interest therein, or holds a lien or encumbrance thereon, the action may proceed against unknown owners or unknown claimants.

(d) ... no change.

(e) ... no change.

Note: Source-R.R. 4:30-4(a)(b) (first sentence) (c)(d)(e); introductory paragraph and paragraphs (b), (c) and (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

4:32-2 Determining by Order Whether to Certify a Class Action; Appointing Class Counsel; Notice and Membership in the Class; Multiple Classes and Subclasses

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) ...no change.

(f) ...no change.

(g) ...no change.

(h) [Counsel] Attorney's Fees and Litigation Expenses. In an action certified as a class action, an application for the award of [counsel] attorney's fees and litigation expenses, if fees and costs are authorized by law, rule, or the parties' agreement, shall be made in accordance with R. 4:42-9. Notice of the motion shall be served on all parties. A motion by class counsel shall be directed to class members in a reasonable manner. A party from whom payment is sought as well as any class member may object to the motion.

Note: Effective September 8, 1969; paragraphs (b) and (c) amended November 27, 1974 to be effective April 1, 1975; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; caption amended, paragraphs (a) and (d) caption and text amended, paragraph (b) amended, former R. 4:32-4 deleted and readopted as amended as new paragraph (e), former R. 4:32-3 deleted and adopted as reformatted as new paragraph (f), and new paragraphs (g) and (h) adopted July 27, 2006 to be effective September 1, 2006, paragraph (a) amended October 9, 2007, to be effective immediately; paragraph (e)(4) amended July 9, 2008 to be effective September 1, 2008; paragraph (h) caption and text amended July 23, 2010 to be effective September 1, 2010.

4:36-3 Trial Calendar

(a) ...no change.

(b) ...no change.

(c) Adjournments, Expert Unavailability. If the reason stated for [the initial] a prior request for an adjournment was the unavailability of an expert witness, no further adjournment request based on that expert's unavailability shall be granted, except upon a showing of exceptional circumstances, but rather that expert shall be required to appear in person or by videotaped testimony taken pursuant to *R. 4:14-9* or, provided all parties consent, the expert's *de bene esse* deposition shall be read to the jury in lieu of the expert's appearance. If appropriate, given the circumstances of the particular case, the court may order that no further adjournments will be granted for the failure of any expert to appear.

Note: Adopted July 5, 2000 to be effective September 5, 2000; corrective amendment to paragraph (c) adopted September 12, 2000 to be effective immediately; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (c) amended July 23, 2010 to be effective September 1, 2010.

4:42-9 [Counsel] Attorney's Fees

(a) Actions in Which Fee Is Allowable. No fee for legal services shall be allowed in the taxed costs or otherwise, except

(1) ...no change.

(2) ...no change.

(3) ...no change.

(4) ...no change.

(5) In an action to foreclose a tax certificate or certificates, the court may award [a counsel] attorney's fees not exceeding \$500 per tax sale certificate in any *in rem* or *in personam* proceeding except for special cause shown by affidavit. If the plaintiff is other than a municipality no [counsel] attorney's fees shall be allowed unless prior to the filing of the complaint the plaintiff shall have given not more than 120 nor fewer than 30 days' written notice to all parties entitled to redeem whose interests appear of record at the time of the tax sale, by registered or certified mail with postage prepaid thereon addressed to their last known addresses, of intention to file such complaint. The notice shall also contain the amount due on the tax lien as of the day of the notice. A copy of the notice shall be filed in the office of the municipal tax collector.

(6) ...no change.

(7) ...no change.

(8) In all cases where [counsel] attorney's fees are permitted by statute.

(b) ...no change.

(c) ...no change.

(d) ...no change.

Note: Source — R.R. 4:55-7(a) (b) (c) (d) (e) (f), 4:55-8, 4:98-4(c). Paragraphs (a) and (b) amended July 7, 1971 to be effective September 13, 1971; paragraph (a) amended November 27, 1974 to be effective April 1, 1975; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a)(1) amended December 20, 1983 to be effective December 31, 1983; paragraphs (a)(1) and (b) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended January 19, 1989 to be effective February 1, 1989; paragraph (a)(4) amended June 29, 1990 to be effective September 4, 1990; paragraph (a)(5) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a)(1), (2) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(5) amended June 28, 1996 to be effective September 1, 1996; paragraph (a)(1) amended January 21, 1999 to be effective April 5, 1999; paragraph (a)(5) amended July 28, 2004 to be effective September 1, 2004; paragraph (a)(3) amended July 27, 2006 to be effective September 1, 2006; caption amended and subparagraphs (a)(5) and (a)(8) amended July 23, 2010 to be effective September 1, 2010.

4:42-11 Interest; Rate on Judgments; in Tort Actions

(a) Post Judgment Interest. Except as otherwise ordered by the court or provided by law, judgments, awards and orders for the payment of money, taxed costs and [counsel] attorney's fees shall bear simple interest as follows:

- (i) ...no change.
- (ii) ...no change.
- (iii) ...no change.
- (b) ...no change.

Note: Adopted December 21, 1971 to be effective January 31, 1972. Paragraph (b) amended June 29, 1973 to be effective September 10, 1973; paragraphs (a) and (b) amended November 27, 1974 to be effective April 1, 1975; paragraphs (a) and (b) amended July 29, 1977 to be effective September 6, 1977; paragraphs (a) and (b) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a)(ii) amended and paragraph (a)(iii) added June 28, 1996 to be effective September 1, 1996; paragraph (b) amended April 28, 2003 to be effective July 1, 2003; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

4:58-2. Consequences of Non-Acceptance of Claimant's Offer

(a) If the offer of a claimant is not accepted and the claimant obtains a money judgment, in an amount that is 120% of the offer or more, excluding allowable prejudgment interest and counsel fees, the claimant shall be allowed, in addition to costs of suit: (1) all reasonable litigation expenses incurred following non-acceptance; (2) prejudgment interest of eight percent on the amount of any money recovery from the date of the offer or the date of completion of discovery, whichever is later, but only to the extent that such prejudgment interest exceeds the interest prescribed by R. 4:42-11(b), which also shall be allowable; and (3) a reasonable attorney's fee [, which shall belong to the client,] for such subsequent services as are compelled by the non-acceptance.

(b) ...no change.

Note: Amended July 7, 1971 to be effective September 13, 1971; amended July 14, 1972 to be effective September 5, 1972; amended July 17, 1975 to be effective September 8, 1975; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended July 28, 2004 to be effective September 1, 2004; text amended and designated as paragraph (a), new paragraph (b) adopted July 27, 2006 to be effective September 1, 2006; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

4:58-5. New Trial

If an action is required to be retried, a party who made a rejected offer of judgment in the original trial may, within 10 days after the fixing of the first date for the retrial, serve the actual notice on the offeree that the offer then made is renewed and, if the offeror prevails, the renewed offer will be effective as of the date of the original offer. If the offeror elects not to so renew the original offer, a new offer may be made under this rule, which will be effective as of the date of the new offer.

Note: Former Rule 4:58-5 redesignated as Rule 4:58-6, and new Rule 4:58-5 caption and text adopted July 23, 2010 to be effective September 1, 2010.

4:58-6. [4:58-5.] Application for Fee; Limitations

Applications for allowances pursuant to R. 4:58 shall be made in accordance with the provisions of R. 4:42-9(b) within 20 days after entry of final judgment. A party who is awarded counsel fees, costs, or interest as a prevailing party pursuant to a fee-shifting statute, rule of court, contractual provision, or decisional law shall not be allowed to recover duplicative fees, costs, or interest under this rule.

Note: Adopted July 27, 2006 as Rule 4:58-5 to be effective September 1, 2006; redesignated as Rule 4:58-6 July 23, 2010 to be effective September 1, 2010.

4:59-1. Execution

(a) ...no change.

(b) ...no change.

(c) [Execution First Made Out of Property of Party Primarily Liable] Order of Property Subject to Execution; Required Motion.

(1) Execution First Made Out of Personal Property; Motion. The execution shall be made out of the judgment debtor's personal property before the judgment-creditor may proceed to sale of the debtor's real property. If the debtor's personal property is insufficient or cannot be located, the judgment creditor shall file a motion, on notice, for an order permitting the sale of the real property. The motion, which shall not be joined with any other application for relief, shall be supported by a certification specifying in detail the actions taken by the judgment creditor to locate and proceed against personal property. The notice of motion shall state that if the motion is not successfully defended, the judgment debtor's real property will be subject to sale. The notice shall have annexed the listing of Legal Services Offices and Lawyer Referral Offices as required by R. 4:4-2. No sale of real property shall proceed unless an order granting the motion has been entered.

(2) Execution First Made Out of Property of Party Primarily Liable. If a writ of execution is issued against several parties, some liable after the others, the court before or after the levy may, on application of any of them and on notice to the others and the execution creditor, direct the sheriff or other officer that, after levying upon the property liable to execution, he or she raise the money, if possible, out of the property of the parties in a designated sequence.

(d) ...no change.

(e) ...no change.

(f) ...no change.

(g) Notice to Debtor. Every court officer or other person levying on a debtor's property shall, on the day the levy is made, mail a notice to the last known address of the person or business entity whose assets are to be levied on stating that a levy has been made and describing exemptions from levy and how such exemptions may be claimed by qualified persons. The notice shall be in the form prescribed by Appendix VI to these rules and copies thereof shall be promptly filed by the levying officer with the clerk of the court and mailed to the person who requested the levy. If the clerk or the court receives a claim of exemption, whether formal or informal, it shall hold a hearing thereon within 7 days after the claim is made. If an exemption claim is made to the levying officer, it shall be forthwith forwarded to the clerk of the court and no further action shall be taken with respect to the levy pending the outcome of the exemption hearing. No turnover of funds or sale of assets may be made, in any case, until 20 days after the date of the levy and the court has received a copy of the properly completed notice to debtor.

(h) ...no change.

Note: Source — *R.R.* 4:74-1, 4:74-2, 4:74-3, 4:74-4. Paragraph (c) amended November 17, 1970 effective immediately; paragraph (d) amended July 17, 1975 to be effective September 8, 1975; paragraph (a) amended, new paragraph (b) adopted and former paragraphs (b), (c), (d), and (e) redesignated (c), (d), (e) and (f) respectively, July 24, 1978 to be effective September 11, 1978; paragraph (b) amended July 21, 1980 to be effective September 8, 1980; paragraphs (a) and (b) amended July 15, 1982 to be effective September 13, 1982; paragraph (d) amended July 22, 1983 to be effective September 12, 1983; paragraph (b) amended and paragraph (g) adopted November 1, 1985 to be effective January 2, 1986; paragraph (d) amended June 29, 1990 to be effective September 4, 1990; paragraph (e) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a), (c), (e), (f), and (g) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended June 28, 1996 to be effective June 28, 1996; paragraph (d) amended June 28, 1996 to be effective September 1, 1996; paragraph (e) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a), (e), and (g) amended July 5, 2000 to be effective September 5, 2000; paragraph (d) amended July 12, 2002 to be effective September 3,

2002; paragraph (d) amended July 28, 2004 to be effective September 1, 2004; paragraphs (a) and (d) amended, and new paragraph (h) adopted July 27, 2006 to be effective September 1, 2006; paragraphs (a) and (f) amended July 9, 2008 to be effective September 1, 2008; paragraph (c) redesignated as subparagraph (c)(2), new paragraph (c) caption adopted, new subparagraph (c)(1) caption and text adopted, and paragraph (g) amended July 23, 2010 to be effective September 1, 2010.

4:64-1. Uncontested Judgment: Foreclosures Other Than In Rem Tax Foreclosures

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) Procedure to Enter Judgment. [If the action is uncontested as defined by paragraph (c) the court, on motion on 10 days notice if there are no other encumbrancers and on 30 days notice if there are other encumbrancers, and subject to paragraph (h) of this rule, may enter final judgment upon proof establishing the amount due. Notice shall be served on mortgagors and all other named parties obligated on the debt and all parties who have appeared in the action including defendants whose answers have been stricken or rendered noncontesting. The notice shall have annexed a copy of the affidavit of amount due filed with the court. Any party having the right of redemption who disputes the correctness of the affidavit may file an objection stating with specificity the basis of the dispute and asking the court to fix the amount due. Defaulting parties shall be noticed only if application for final judgment is not made within six months of the entry of default. The application for entry of judgment shall be accompanied by proofs as required by R. 4:64-2 and in lieu of the filing otherwise required by R. 1:6-4 shall be only filed with the Office of Foreclosure in the Administrative Office of the Courts. The Office of Foreclosure may recommend entry of final judgment pursuant to R. 1:34-6.]

(1) Prejudgment notices; responses.

(A) Notice of motion for entry of judgment shall be served within the time prescribed by subparagraph (d)(2) of this rule on mortgagors and all other named parties obligated on the debt and all parties who have appeared in the action including defendants whose answers have been stricken or rendered noncontesting. The notice shall have annexed a copy of the affidavit

of amount due filed with the court. If the premises are residential, the notice shall be served on each tenant, by personal service or registered or certified mail, return receipt requested, accompanied by the notice of tenants' rights during foreclosure in the form prescribed by Appendix XII-K of the rules of court. Said notice of tenants' rights shall be contained in an envelope with the following text in bold and in at least 14 point type: "Important Notice about Tenants Rights." If the name of the tenant is unknown, the notice may be addressed to Tenant. Any party having the right of redemption who disputes the correctness of the affidavit may file an objection stating with specificity the basis of the dispute and asking the court to fix the amount due.

(B) Defaulting parties shall be noticed only if application for final judgment is not made within six months of the entry of default.

(2) Application for judgment; entry.

If the action is uncontested as defined by paragraph (c) the court, on motion on 10 days notice if there are no other encumbrancers and on 30 days notice if there are other encumbrancers, and subject to paragraph (h) of this rule, may enter final judgment upon proof establishing the amount due. The application for entry of judgment shall be accompanied by proofs as required by R. 4:64-2 and in lieu of the filing otherwise required by R. 1:6-4 shall be only filed with the Office of Foreclosure in the Administrative Office of the Courts. The Office of Foreclosure may recommend entry of final judgment pursuant to R. 1:34-6.

(e) ...no change.

(f) Tax Sale Foreclosure; Strict Mortgage Foreclosures. If an action to foreclose or reforeclose a tax sale certificate in personam or to strictly foreclose a mortgage where provided by law is uncontested as defined by paragraph (c), the court, subject to paragraph (h) of this rule,

shall enter an order fixing the amount, time and place for redemption upon proof establishing the amount due. The order of redemption in tax foreclosure actions shall conform to the requirements of *N.J.S.A. 54:5-98* and *R. 4:64-6(b)*. The order for redemption or notice of the terms thereof shall be served by ordinary mail on each defendant whose address is known at least 10 days prior to the date fixed for redemption. Notice of the entry of the order of redemption, directed to each defendant whose address is unknown, shall be published in accordance with *R. [4:4-5(c)] 4:4-5(a)(3)* at least 10 days prior to the redemption date and, in the case of an unknown owner in a tax foreclosure action joined pursuant to *R. 4:26-5*, a copy of the order or notice shall be posted on the subject premises at least 20 days prior to the redemption date in accordance with *N.J.S.A. 54:5-90*. The court, on its own motion and on notice to all appearing parties including parties whose answers have been stricken, may enter final judgment upon proof of service of the order of redemption as herein required and the filing by plaintiff of an affidavit of non-redemption. The Office of Foreclosure may, pursuant to *R 1:34-6*, recommend the entry of both the order for redemption and final judgment.

(g) ...no change.

(h) ...no change.

(i) ...no change.

Note: Source — *R.R. 4:82-1, 4:82-2*. Paragraph (b) amended July 14, 1972 to be effective September 5, 1972; paragraphs (a) and (b) amended November 27, 1974 to be effective April 1, 1975; paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (c) adopted November 1, 1985 to be effective January 2, 1986; caption amended, paragraphs (a) and (b) caption and text amended, former paragraph (c) redesignated paragraph (e), and paragraphs (c), (d) and (f) adopted November 7, 1988 to be effective January 2, 1989; paragraphs (b) and (c) amended and paragraph (g) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (e) and (f) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (f) caption and text amended July 12, 2002 to be effective September 3, 2002; new paragraphs (a) and (b) adopted, and former paragraphs (a), (b), (c), (d), (e), (f), and (g) redesignated as paragraphs (c), (d), (e), (f), (g), (h), and (i) July 27, 2006 to be effective September 1, 2006;

paragraph (b) caption and text amended September 11, 2006 to be effective immediately; paragraphs (d) and (f) amended October 10, 2006 to be effective immediately; paragraph (d) amended July 9, 2008 to be effective September 1, 2008; text of paragraph (d) deleted, new subparagraphs (d)(1) and (d)(2) captions and text adopted, and paragraph (f) amended July 23, 2010 to be effective September 1, 2010.

4:64-9. Motions in Uncontested Matters

A notice of motion filed with the Office of Foreclosure shall not state a time and place for its resolution. The notice of motion shall state the address of the Office of Foreclosure and that the order sought will be entered in the discretion of the court unless the attorney or pro se party on whom it has been served notifies in writing the Office of Foreclosure and the attorney for the moving party or the pro se party within ten days after the date of service of the motion that the responding party objects to the entry of the order. On receipt of a[n] specific objection or at the direction of the court, the Office of Foreclosure shall deliver the foreclosure case file to the judge in the county of venue, who shall schedule such further proceedings and notify the parties or their attorneys of the time and place thereof.

Every notice of motion in a foreclosure action shall include the following language:

"IF YOU WANT TO OBJECT TO THIS MOTION YOU MUST DO SO IN WRITING WITHIN 10 DAYS AFTER THE DAY YOU RECEIVED THIS MOTION. ANY OBJECTION MUST ADDRESS THE SUBJECT OF THE MOTION AND DETAIL WITH SPECIFICITY THE BASIS OF THE OBJECTION. YOU MUST FILE YOUR OBJECTION WITH THE OFFICE OF FORECLOSURE, P.O. BOX 971, 25 MARKET STREET, TRENTON, NEW JERSEY 08625, AND SERVE A COPY ON THE MOVING PARTY. THE OFFICE OF FORECLOSURE DOES NOT CONDUCT HEARINGS. YOUR PERSONAL APPEARANCE AT THE OFFICE WILL NOT QUALIFY AS AN OBJECTION. IF YOU FILE A[N] SPECIFIC OBJECTION, THE CASE WILL BE SENT TO A JUDGE FOR RESOLUTION. YOU WILL BE INFORMED BY THE JUDGE OF THE TIME AND PLACE OF THE HEARING ON THE MOTION."

Note: Adopted July 9, 2008 to be effective September 1, 2008; amended July 23, 2010 to be effective September 1, 2010.

4:65-2. Notice of Sale; Posting and Mailing

If real or personal property is authorized by court order or writ of execution to be sold at public sale, notice of the sale shall be posted in the office of the sheriff of the county or counties where the property is located, and also, in the case of real property, on the premises to be sold, but need not be posted in any other place. If the premises are residential, the notice of sale shall have annexed thereto, in bold type of at least 14-point, the notice of tenants' rights during foreclosure in the form prescribed by Appendix XII-K of the rules of court. The party who obtained the order or writ shall, at least 10 days prior to the date set for sale, serve a notice of sale by registered or certified mail, return receipt requested, upon (1) every party who has appeared in the action giving rise to the order or writ and (2) the owner of record of the property as of the date of commencement of the action whether or not appearing in the action, and (3) except in mortgage foreclosure actions, every other person having an ownership or lien interest that is to be divested by the sale and is recorded in the office of the Superior Court Clerk, the United States District Court Clerk or the county recording officer, and in the case of personal property, recorded or filed in pertinent public records of security interests, provided, however, that the name and address of the person in interest is reasonably ascertainable from the public record in which the interest is noted. The notice of sale shall include notice that there may be surplus money and the procedure for claiming it. The party obtaining the order or writ may also file the notice of sale with the county recording officer in the county in which the real estate is situate, pursuant to *N.J.S.A. 46:16A-1 et seq.*, and such filing shall have the effect of the notice of settlement as therein provided.

Note: Source — *R.R. 4:83-2*; caption and rule amended July 13, 1994 to be effective September 1, 1994; amended July 3, 1995, to be effective immediately; amended July 9, 2008 to be effective September 1, 2008; amended July 23, 2010 to be effective September 1, 2010.

4:74-3. Appeals From Penalties Imposed by Municipal Courts

(a) Notice of Appeal; Bond or Deposit. A party appealing from a judgment of a municipal court imposing a penalty shall file a notice of appeal with the clerk of the municipal court describing the judgment, stating that an appeal is being taken therefrom to the Law Division of the Superior Court in the county of venue and stating whether or not a verbatim record was made in the municipal court. A copy of the notice of appeal shall be served upon the opposing party, and a copy filed with the deputy clerk of the Superior Court in the county of venue. On appeal from a judgment imposing a penalty, appellant shall deliver to the municipal court a deposit in cash or a bond with at least one sufficient surety, [in double the amount of the judgment;] in the amount of the judgment in full, together with interest and costs, or if the judgment imposes no money penalty or imposes imprisonment with a money penalty, then in such sum as the court fixes, conditioned upon the prosecution of the appeal and compliance with such further order or judgment as may be entered. If the bond is forfeited, it may be prosecuted by the obligee, and if the obligee is the State, then by the State at the relation of the person authorized by law to prosecute the penalty proceeding. The appeal shall be deemed perfected upon service and filing of the notice of appeal and the delivery of the cash deposit or bond.

(b) ...no change.

(c) ...no change.

(d) ...no change.

(e) ...no change.

(f) ...no change.

(g) ...no change.

Note: Source — *R.R. 5:2-6(b)*. Paragraphs (a) and (d) amended July 7, 1971 to be effective September 13, 1971; paragraphs (a)(c)(e) and (g) amended November 22, 1978 to be effective December 7, 1978; paragraphs (a) (c) and (e) amended July 11, 1979 to be effective September 10, 1979; paragraphs (a) (b) and (g) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) (c) and (d) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

4:80-3. Renunciation by or Notice to Next of Kin and Others

If the application for the letters specified in R. 4:80-1(a) (except letters testamentary) is made to the Surrogate's Court by the person first entitled thereto, no renunciation or notice shall be required; but if the application is made by any other person, the applicant shall file:

(a) ... no change.

(b) proof that at least 10 days' notice of the application has been given to all such persons residing in this State who have not renounced, and that at least 60 days' notice, or such notice (not less than 10 days in length) as the Surrogate's Court by order may have directed, has been given to all of them who reside outside this State. If in an application for letters of administration with the will annexed, it appears that the decedent left a will naming an executor who has not renounced, proof shall be submitted showing that like notice has been given to the executor. In any case the Surrogate's Court may require the applicant to give notice to interested persons other than those entitled to letters. Such notice may be served either as prescribed by R. 4:4-4 or by registered or certified mail return receipt requested to the person's last known address. If the name or address of any such person entitled to notice is not known, then an affidavit of inquiry as to such name or address, made as prescribed by R. [4:4-5(c)] 4:4-5(b) shall be filed in lieu of proof of notice.

(c) ... no change.

(d) ... no change.

Note: Source-R.R. 4:99-3. Amended July 26, 1984 to be effective September 10, 1984; former caption and text of R. 4:80-3 deleted, introductory text and paragraphs (a), (b) and (c) of former R. 4:80-4 amended, paragraph (d) adopted, and rule redesignated June 29,

1990 to be effective September 4, 1990; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 23, 2010 to be effective September 1, 2010.

4:87-4. Service

(a) ... no change

(b) If the names or addresses of any persons interested in the account are unknown, notice of the accounting shall be given to the Attorney General at least 45 days prior to the return date, and plaintiff shall file an affidavit of inquiry as to such names or addresses made in accordance with R. [4:4-5(c)(2)] 4:4-5(b). The court may then enter such order for service of process as it deems proper including publication of a notice of the proceedings in accordance with R. [4:4-5(c)] 4:4-5(a)(3) at least 30 days before the return date.

(c) ... no change

Note: Source-R.R. 4:106-3. Former R. 4:87-3 deleted and new R. 4:87-4 adopted June 29, 1990 to be effective September 4, 1990; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 12, 2002 to be effective September 3, 2002; paragraph (b) amended July 23, 2010 to be effective September 1, 2010.

4:89-3. Inquiry for Unknown Distributees

If in an action for the distribution of personal property of a decedent who died intestate, proceedings are taken under N.J.S.A. 3B:23-19 to bar persons whose names or addresses are unknown from all right, title or claim to the estate, the court shall require an inquiry and affidavit to be made pursuant to R. [4:4-5(c)] 4:4-5(a)(3). Plaintiff's attorney shall also give notice of the proceedings to the Attorney General within 45 days of the date they are scheduled to commence and shall file an appropriate proof of said notice.

Note: Source-R.R. 4:108-3. Amended July 22, 1983 to be effective September 12, 1983; amended June 29, 1990 to be effective September 4, 1990; amended July 5, 2000 to be effective September 5, 2000; amended July 23, 2010 to be effective September 1, 2010.

6:2-3. Service of Process

(a) ... no change.

(b) Manner of Service. Service of process within this State shall be made in accordance with R. 6:2-3(d) or as otherwise provided by court order consistent with due process of law, or in accordance with R. 4:4-5. Substituted service within this State shall be made pursuant to R. 6:2-3(d). Substituted or constructive service outside this State may be made pursuant to the applicable provisions in R. 4:4-4 or R. 4:4-5.

In summary actions for the recovery of premises [landlord and tenant actions], service of process shall be by ordinary mail and by [either] delivery personally pursuant to R. 4:4-4. When the person serving process is unable to effectuate service by delivering process personally, service may be effectuated [or] by affixing a copy of the summons and complaint on the door of the unit occupied by the defendant or, if that is not possible, on another conspicuous part of the subject premises. When the plaintiff-landlord has reason to believe that service may not be made at the subject premises, the landlord shall also request service at an address, by certified and regular mail addressed to the tenant, where the landlord believes that service will be effectuated. The landlord shall furnish to the clerk two additional copies of the summons and complaint for each defendant for this purpose.

(c) ... no change.

(d) ... no change.

(e) ... no change.

Note: Source--R.R. 7:4-6(a)(b) (first three sentences), 7:4-7. Paragraph (a) amended July 7, 1971 effective September 13, 1971; paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended November 27, 1974 to be effective April 1, 1975; paragraphs (a)(b) amended July 17, 1975 to be effective September 8, 1975; paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (a) amended July 21, 1980

to be effective September 8, 1980; paragraph (b) amended July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and paragraph (d) adopted November 5, 1986 to be effective January 1, 1987; paragraph (c) amended November 7, 1988 to be effective January 2, 1989; paragraphs (b) and (d) amended June 29, 1990 to be effective September 4, 1990; paragraph (d) amended July 17, 1991 to be effective immediately; paragraph (e) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (e) amended July 13, 1994 to be effective September 1, 1994; paragraph (d)(4) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a), (b), (d), (d)(2), and (e) amended July 12, 2002 to be effective September 3, 2002; paragraphs (b), d(4) and (5) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 23, 2010 to be effective September 1, 2010.

6:4-3. Interrogatories; Admissions; Production

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

(f) Actions Cognizable But Not Pending in Small Claims Section, Discovery. Any action filed in the Special Civil Part that is cognizable but not pending in the Small Claims Section [of the Special Civil Part shall] may proceed with [without] discovery, [except that] but each party is limited to serving [may serve] interrogatories consisting of no more than five questions without parts. Such interrogatories shall be served and answered within the time limits set forth in R. 6:4-3(a). Additional interrogatories may be served and enlargements of time to answer may be granted only by court order on timely notice of motion for good cause shown.

Note: Source – R.R. 7:6-4A (a) (b) (c), 7:6-4B, 7:6-4C. Caption amended and paragraph (c) adopted July 7, 1971 to be effective September 13, 1971; caption amended, paragraph (a) amended, and paragraph (d) adopted July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (e) adopted July 15, 1982 to be effective September 13, 1982; paragraph (e) amended July 22, 1983 to be effective September 12, 1983; paragraphs (a), (c), (d) and (e) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended, paragraph (b) adopted and former paragraphs (b), (c), (d) and (e) redesignated as (c), (d), (e) and (f) respectively, June 29, 1990 to be effective September 4, 1990; paragraph (b) amended August 31, 1990, to be effective September 4, 1990; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (c) caption and text amended, and paragraph (f) amended July 12, 2002 to be effective September 3, 2002; former paragraph (b) deleted and paragraphs (c), (d), (e) and (f) redesignated as paragraphs (b), (c), (d) and (e), respectively, July 28, 2004, to be effective September 1, 2004; paragraph (b) amended, new paragraph (c) adopted, and former paragraphs (c), (d), (e) redesignated as paragraphs (d), (e), (f) July 27, 2006 to be effective September 1, 2006; paragraph (a) amended August 1, 2006 to be effective September 1, 2006; paragraph (f) caption and text amended July 23, 2010 to be effective September 1, 2010.

6:7-1. Requests for Issuance of Writs of Execution; Contents of Writs of Execution and Other Process for the Enforcement of Judgments; Notice to Debtor; Claim for Exemption; Warrant of Removal; Enforcement of Consent Judgments and Stipulations of Settlement in Tenancy Actions

(a) ... no change.

(b) Contents of Writs of Execution and Other Process for the Enforcement of Judgments. All writs of execution and other process for the enforcement of judgments shall provide that any levy pursuant thereto shall exclude:

(1) all funds in an account of the debtor with a bank or other financial institution, if all deposits into the account during the 90 days immediately prior to service of the writ were electronic deposits, made on a recurring basis, of funds identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law, and

(2) all funds deposited electronically in an account of the debtor with a bank or other financial institution during the 45 days immediately prior to service of the writ that are identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law.

(c) [(b)] Notice to Debtor. The provisions of R. 4:59-1(g) respecting notice to debtor, exemption claims and deferment of turnover and sales of assets shall apply to all writs of execution issued by the Law Division, Special Civil Part, except that a copy of the Notice to Debtor shall not be filed by the levying officer with the clerk of the court after a levy on a bank account. The notice to debtor shall be in the form prescribed by Appendix VI to these rules.

(d) [(c)] Warrant of Removal; Issuance, Execution. ... no change to text.

(e) [(d)] Enforcement of Consent Judgments and Stipulations of Settlement in Tenancy Actions. ... no change to text.

Note: Source – R.R. 7:11-1; former rule redesignated as paragraph (a) and paragraph (b) adopted and caption amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended November 1, 1985 to be effective January 2, 1986; caption amended and paragraph (c) adopted November 7, 1988 to be effective January 2, 1989; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; caption and paragraph (c), caption and text, amended July 13, 1994 to be effective September 1, 1994; paragraph (a) caption and text amended June 28, 1996 to be effective September 1, 1996; caption amended and paragraph (d) adopted July 18, 2001 to be effective November 1, 2001; paragraph (c) amended September 14, 2004 to be effective immediately; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; caption amended, former paragraph (b) redesignated as paragraph (c) and amended, former paragraphs (c) and (d) redesignated as paragraphs (d) and (e), and new paragraph (c) caption and text adopted July 23, 2010 to be effective September 1, 2010.

8:3-2. Pleadings Allowed

(a) Generally. Pleadings shall consist of the complaint and such responsive pleadings as shall be filed in the action. A case information statement in a form prescribed in these rules shall be attached to the complaint. A complaint that fails to include a case information statement shall be treated as a nonconforming paper that shall be returned stamped "Received but not filed (date)" as provided in R. 1:5-6(c).

(b) ... no change.

(c) ... no change.

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 16, 1981 to be effective September 14, 1981; text allocated into paragraphs (a) and (b) and amended, paragraph (a) and (b) captions adopted, and new paragraph (c) adopted July 9, 2008 to be effective September 1, 2008; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

8:3-4. Contents of Complaint Generally

(a) ... no change.

(b) ... no change.

(c) Small Claims Classification.

(1) In state tax cases the complaint shall state whether the amount of refund claimed or the taxes or additional taxes sought to be set aside or the amount in controversy, as the case may be, with respect to any year, exceeds the sum of [\$2,000] \$5,000 exclusive of interest and penalties.

(2) In local property tax cases, the complaint shall state whether each separately assessed parcel of property under appeal is a class 2 property (1-4 family residence) or a class 3A farm residence or, if small claims jurisdiction is based on the prior year's taxes, there shall be included with the complaint a copy of the prior year's final tax bill or the current year's notice of assessment or a statement certifying the prior year's taxes. Where small claims jurisdiction is based on the prior year's taxes, a complaint that fails to confirm the prior year's taxes as specified in this subparagraph shall be treated as a nonconforming paper that shall be returned stamped "Received but not filed (date)" as provided in R. 1:5-6(c).

(d) ... no change.

(e) ... no change.

Note: Adopted June 20, 1979 to be effective July 1, 1979. Paragraphs (a) and (d) amended July 15, 1982 to be effective September 13, 1982; paragraph (e) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (b) and (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (c)(1) and (c)(2) amended July 23, 2010 to be effective September 1, 2010.

RULE 8:11. SMALL CLAIMS DIVISION; PRACTICE AND PROCEDURE

(a) (1) The small claims division will hear all state tax cases in which the amount of refund claimed or the taxes or additional taxes sought to be set aside with respect to any year for which the amount in controversy as alleged in the complaint does not exceed the sum of [\$2,000] \$5,000 exclusive of interest and penalties.

(2) The small claims division will hear all local property tax cases in which the property at issue is a class 2 property (1-4 family residence) or a class 3A farm residence and all other local property tax cases in which the prior year's taxes for the subject property were less than \$25,000. Cases raising exemption or abatement issues are not eligible for the small claims division. Local property tax cases in the small claims division shall be assigned to the small claims track.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) In local property tax cases, if it appears at any time before the close of proofs that a parcel of property under appeal is [neither a class 2 property (1-4 family residence) nor a class 3A farm residence, and therefore] not within the jurisdiction of the small claims division, the court may in its discretion retain the matter in the small claims track or transfer the matter to the standard track.

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 22, 1983 to be effective September 12, 1983; amended November 5, 1986 to be effective January 1, 1987; amended November 7, 1988 to be effective January 2, 1989; amended July 13, 1994 to be effective September 1, 1994 amended July 5, 2000 to be effective September 5, 2000; amended July 28, 2004 to be effective September 1, 2004; paragraph letters added, paragraphs (a), (b), (c) and (e) amended July 9, 2008 to be effective September 1, 2008; paragraphs (a) and (e) amended July 23, 2010 to be effective September 1, 2010 .

APPENDIX II. — INTERROGATORY FORMS

Form A. Uniform Interrogatories to be Answered by Plaintiff in All Personal Injury

Cases (Except Medical Malpractice Cases): Superior Court

All questions must be answered unless the court otherwise orders or unless a claim of privilege or protective order is made in accordance with R. 4:17-1(b)(3).

(Caption)

1. ...no change.
2. ...no change.
3. ...no change.
5. ...no change.
6. ...no change.
7. ...no change.
8. ...no change.
9. ...no change.
10. ...no change.
11. ...no change.
12. ...no change.
13. ...no change.
14. ...no change.
15. ...no change.
16. ...no change.
17. ...no change.
18. ...no change.

19. ...no change.

20. ...no change.

21. ...no change.

22. ...no change.

23. ...no change.

24. ...no change.

TO BE ANSWERED ONLY IN AUTOMOBILE ACCIDENT CASES

25. ...no change.

[FOR MEDICAL MALPRACTICE CASES, ALSO ANSWER FORM A(1)]

**FOR PRODUCT LIABILITY CASES (OTHER THAN PHARMACEUTICAL AND
TOXIC TORT CASES), ALSO ANSWER A(2)**

CERTIFICATION

...no change.

Note: Amended July 17, 1975 to be effective September 8, 1975; entire text deleted and new text added July 13, 1994 to be effective September 1, 1994; amended June 28, 1996 to be effective September 1, 1996; amended July 10, 1998 to be effective September 1, 1998; new introductory paragraph added July 5, 2000 to be effective September 5, 2000; interrogatory 23 and certification amended July 28, 2004 to be effective September 1, 2004; caption and final instruction amended July 23, 2010 to be effective September 1, 2010.

APPENDIX II. — INTERROGATORY FORMS

Form A(1). Uniform Interrogatories to be Answered by Plaintiff in Medical Malpractice

Cases Only: Superior Court

All questions must be answered unless the court otherwise orders or unless a claim of privilege or protective order is made in accordance with *R. 4:17-1(b)(3)*.

(Caption)

1. ...no change.
2. ...no change.
3. ...no change.
4. ...no change.
5. ...no change.
6. ...no change.
7. ...no change.
8. ...no change.
9. ...no change.
10. ...no change.
11. ...no change.
12. ...no change.
13. ...no change.
14. ...no change.
15. ...no change.
16. ...no change.
17. ...no change.

18. ...no change.

19. If you were treated, attended or examined by any physician(s) or others for the injuries identified in response to Question 18, state:

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) ...no change.

(e) If any diagnostic tests were performed, state the type of test performed, name and address of place where performed, date each test was performed and what each test disclosed.

Attach a copy of the test results.

20. ...no change.

21. ...no change.

CERTIFICATION

...no change.

Note: New form interrogatory adopted June 28, 1996 to be effective September 1, 1996; new introductory paragraph added July 5, 2000 to be effective September 5, 2000; interrogatory 9 and certification amended July 28, 2004 to be effective September 1, 2004; new paragraph 19 (e) added July 23, 2010 to be effective September 1, 2010.

APPENDIX II-A

Notice to Client/Pro Se Party Pursuant to R. 4:23-5(a)(1)

Enclosed is a copy of the court's order which

- _____ dismisses your complaint
- _____ strikes your answer and defenses
- _____ other (be specific)

This order can be vacated only by a formal motion. You must fully respond to demands for discovery made pursuant to R. 4:17, R. 4:18-1 or R. 4:19 and served on behalf of (name) prior to the filing of such a motion, and you must pay a restoration fee of \$100.00 if the motion to vacate is made within 30 days after entry of this order and in the amount of \$300.00 if the motion is made thereafter.

Failure to file such a motion within 60 [90] days after the entry of this order may result in the imposition of counsel fees and the assessment of costs against you or may forever preclude the restoration of the pleading(s) filed on your behalf.

Please be guided accordingly.

Note: Form F amended July 10, 1998 to be effective September 1, 1998; Form F designated as Appendix II-A and text amended July 9, 2008 to be effective September 1, 2008; amended July 23, 2010 to be effective September 1, 2010.

[APPENDIX VI – NOTICE TO DEBTOR (Rules 4:59-1(g) and 6:7-1(b))]

Re: _____

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART**
_____ County

v. _____

Docket No: _____

NOTICE TO DEBTOR

To: _____, designated defendant:

Your asset, in an amount not to exceed \$ _____ has been levied upon at the instruction of: _____ to satisfy in whole or in part the judgment against you in the above matter. If you are an individual rather than a business entity, some property may be exempt from execution by Federal and State law, including but not limited to clothing and a total of \$1,000.00 of cash and personal property, except for goods purchased as part of the transaction, which led to the judgment in this case. In addition, welfare benefits, social security benefits, S.S.I. benefits, V.A. benefits, unemployment benefits, workers' compensation benefits and child support you receive are exempt, even if the funds have been deposited in a bank account.

If the levy is against a bank account, the bank has already been notified to place a hold on your account. However, the funds will not be taken from your account until the court so orders. If you are entitled to an exemption as an individual, you may claim your exemption by notifying the clerk of the court and the person who ordered this levy of your reasons why your property is exempt. This claim must be in writing and if it is not mailed within 10 days of service of this notice, your property is subject to further proceedings for execution. The address of the court is: _____.

A Levy has been served on the following:

1. _____
2. _____
3. _____
4. _____
5. _____

The name and address of the person who ordered this levy is:

CERTIFICATION OF SERVICE

I mailed a copy of this notice to the defendant(s) and the person who requested the levy on _____, 20____, the same day this levy was made. I certify that the foregoing statements made by me are true. I am aware that if the foregoing statements made by me are willfully false, I am subject to punishment.

Date: _____

(Signature)

(Court Officer)

[Note: Amended July 14, 1992, effective September 1, 1992; amended July 13, 1994, effective September 1, 1994; amended July 5, 2000, effective September 5, 2000; amended July 27, 2006 to be effective September 1, 2006; amended July 23, 2010 to be effective September 1, 2010.]

[APPENDIX XI-B – TENANCY SUMMONS
AND RETURN OF SERVICE (R. 6:2-1)]

Plaintiff or Plaintiff's Attorney Information:

Name: _____

Address: _____

Phone: (____) _____

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
_____ County

(____) _____

_____, Plaintiff(s)

Docket Number: LT - _____
(to be provided by the court)

vs.

_____, Defendant(s)

**Civil Action
SUMMONS
LANDLORD/TENANT**

Defendant Information:

Name: _____

Address: _____

Phone: (____) _____

____ Nonpayment

____ Other

NOTICE TO TENANT: The purpose of the attached complaint is to permanently remove you and your belongings from the premises. If you want the court to hear your side of the case you must appear in court on this date and time: _____ at _____ a.m./p.m., or the court may rule against you.
REPORT TO: _____

If you cannot afford to pay for a lawyer, free legal advice may be available by contacting Legal Services at _____. If you can afford to pay a lawyer but do not know one, you may call the Lawyer Referral Services of your local county Bar Association at _____.

You may be eligible for housing assistance. To determine your eligibility, you must immediately contact the welfare agency in your county at _____, telephone number _____.

If you need an interpreter or an accommodation for a disability, you must notify the court immediately.

Si Ud. no tiene dinero para pagar a un abogado, es posible que pueda recibir consejos legales gratuitos si se comunica con Servicios Legales (Legal Services) al _____. Si tiene dinero para pagar a un abogado pero no conoce ninguno puede llamar a Servicios de Recomendación de Abogados (Lawyer Referral Services) del Colegio de Abogados (Bar Association) de su condado local al _____.

Es posible que pueda recibir asistencia con la vivienda si se comunica con la agencia de asistencia publica (welfare agency) de su condado al _____, telefono _____.

Si necesita un interprete o alguna acomodación para un impedimento fisico, tiene que notificárselo inmediatamente al tribunal.

Date: _____

Clerk of the Special Civil Part

COURT OFFICER'S RETURN OF SERVICE (FOR COURT USE ONLY)

Docket Number: _____	Date: _____	Time: _____
WM ____ WF ____ BM ____ BF ____ OTHER _____	HT ____ WT ____ AGE ____ MUSTACHE ____ BEARD ____ GLASSES ____	NAME: _____
RELATIONSHIP: _____		
Efforts Made to Personally Serve _____		
Description of Premises if Posted _____		
I hereby certify the above to be true and accurate: _____		
Special Civil Part Officer		

[Note: Former Appendix XI-B, consisting of model tenancy complaint and summons forms, deleted, and new tenancy summons and return of service form adopted July 12, 2002 to be effective September 3, 2002; amended July 27, 2006 to be effective September 1, 2006; amended July 23, 2010 to be effective September 1, 2010.]

APPENDIX XI-H EXECUTION AGAINST GOODS AND CHATTELS

DOCKET NO.: DC-_____-
JUDGMENT NO.: VJ-_____-
WRIT NUMBER: _____

SUPERIOR COURT OF NEW JERSEY
SPECIAL CIVIL PART

COUNTY
STATE OF NEW JERSEY

EXECUTION AGAINST GOODS AND CHATTELS

PLAINTIFF(S)
VS.

DEFENDANT(S)

DEBTORS: _____

ADDRESS OF FIRST DEBTOR:
STREET ADDRESS
CITY NJ ZIP

TO: _____
COURT OFFICER OF THE SPECIAL CIVIL PART

YOU ARE ORDERED to levy on the property of any of the debtors designated herein; your actions may include, but are not limited to, taking into possession any motor vehicle(s) owned by any of the debtors, taking possession of any inventory and/or machinery, cash, bank accounts, jewelry, electronic devices, fur coats, musical instruments, stock certificates, securities, notes, rents, accounts receivable, or any item(s) which may be sold pursuant to statute to satisfy this execution in full or in part. Any levy pursuant to this writ shall exclude (1) all funds in an account of the debtor with a bank or other financial institution, if all deposits into the account during the 90 days immediately prior to service of the writ were electronic deposits, made on a recurring basis, of funds identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law, and (2) all funds deposited electronically in an account of the debtor with a bank or other financial institution during the 45 days immediately prior to service of the writ that are identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law. All proceeds are to be paid to the court officer who shall pay them to the creditor or the attorney for the creditor, or, if this is not possible, to the court. This order for execution shall be valid for two years from this date.

Local police departments are authorized and requested to provide assistance, if needed, to the officer executing this writ. This does not authorize entry to a residence by force unless specifically directed by court order.

Judgment Date _____ Date: _____
Judgment Amount.....\$ _____
Costs and Atty. Fees\$ _____
Subsequent Costs.....\$ _____
Total.....\$ _____
Credits, if any.....\$ _____
Subtotal A.....\$ _____
Interest.....\$ _____
Execution costs and mileage.....\$ _____
Subtotal B.....\$ _____
Court officer fee.....\$ _____
Total due this date.....\$ _____

Date: _____
Property to be Levied
Upon and Location of Same:

CITY STATE ZIP
CREDITOR'S ATTORNEY AND ADDRESS:

CITY NJ ZIP
Telephone: _____

Judge

Clerk of the Special Civil Part

I RETURN this execution to the Court

() Unsatisfied _____
() Satisfied () Partly Satisfied
Amount Collected. . _____

Fee Deducted. _____

Amount Paid to Atty. _____

Date: _____

Court Officer

[Note: Adopted January 2, 1989; amended July 13, 1994, effective September 1, 1994; amended July 10, 1998 to be effective September 1, 1998; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004; amended July 23, 2010 to be effective September 1, 2010.]

APPENDIX XII-A. SUMMONS

Attorney(s):
Office Address & Tel. No.:
Attorney(s) for Plaintiff(s)

SUPERIOR COURT OF NEW JERSEY

COUNTY

DIVISION

Plaintiff(s)

Docket No. _____

vs.

CIVIL ACTION

Defendant(s)

SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). 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.

Clerk of the Superior Court

DATED:

Name of Defendant to Be Served:

Address of Defendant to Be Served:

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
(800) 496-4570

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 750
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) 263-6109
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) 523-2900

SALEM COUNTY:

Deputy Clerk of the Superior Court
92 Market St., P.O. Box 18
Salem, NJ 08079
LAWYER REFERRAL
(856) 678-8363
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
(908) 387-1835
LEGAL SERVICES
(908) 475-2010

Note: Adopted July 13, 1994, effective September 1, 1994; amended June 28, 1996, effective September 1, 1996; address/phone information updated July 1, 1999, effective September 1, 1999; amended July 12, 2002 to be effective September 3, 2002; amended July 27, 2006 to be effective September 1, 2006; address/phone information updated October 10, 2006 to be effective immediately; address/phone information updated November 1, 2006 to be effective immediately; address/phone information updated November 17, 2006 to be effective immediately; amended July 23, 2010 to be effective September 1, 2010.

Appendix XII-D
WRIT OF EXECUTION

Attorney for Plaintiff

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION**

_____ COUNTY

_____ Plaintiff

DOCKET NO: _____

Vs

WRIT OF EXECUTION

_____ Defendant

THE STATE OF NEW JERSEY

TO THE SHERIFF OF _____

WHEREAS, on the _____ day of _____ judgment was recovered by Plaintiff, _____ in an action in the Superior Court of New Jersey, Law Division, _____ County, against Defendant, for damages of \$ _____ and costs of \$ _____ ; and

WHEREAS, on _____ , the judgment was entered in the civil docket of the Clerk of the Superior Court, and there remains due thereon \$ _____ .

THEREFORE, WE COMMAND YOU that you satisfy the said Judgment out of the personal property of the said Judgment debtor within your County; and if sufficient personal property cannot be found then out of the real property in your County belonging to the judgment debtor(s) at the time when the judgment was entered or docketed in the office of the Clerk of this Court or at any time thereafter, in whosoever hands the same may be, and you pay the said monies realized by you from such property to _____, Esq., attorney in this action; and that within twenty-four months after the date of its issuance you return this execution and your proceedings thereon to the Clerk of the Superior Court of New Jersey at Trenton.

WE FURTHER COMMAND YOU, that in case of a sale, you make your return of this Writ with your proceedings thereon before this Court and you pay to the Clerk thereof any surplus in your hands within thirty days after the sale.

WITNESS, HONORABLE _____ a Judge of the Superior Court, at _____ this _____ day of _____, 20__.

_____, CLERK

ENDORSEMENT

Judgment Amount*:	\$ _____
Additional Costs:	\$ _____
Interest thereon:	\$ _____
Credits:	\$ _____
Sheriff's Fees:	\$ _____
Sheriff's Commissions:	\$ _____
 TOTAL	 \$ _____

*"Judgment Amount" includes amount of verdict or settlement, plus pre-judgment court costs, plus any applicable statutory attorney's fee.

Post Judgment Interest applied pursuant to R 4:42-11 has been calculated as **simple interest**. As required by R. 4:59-1, attached is the method by which interest has been calculated, taking into account all partial payments made by the defendant.

Attorney for Plaintiff

Dated: _____, 20__

Note: Form adopted as Appendix XII-D July 27, 2006 to be effective September 1, 2006; amended September 11, 2006 to be effective immediately; amended July 9, 2008 to be effective September 1, 2008; amended July 23, 2010 to be effective September 1, 2010.



[Appendix XXVIII-A]
Tax Court of New Jersey
Case Information Statement (CIS-LP)

INSTRUCTIONS: TO BE ATTACHED TO FACE OF COMPLAINT (TYPE OR PRINT)

Attorney Name (List your information if you are not represented by an attorney)

Street

City

State

Zip

Telephone Number

PART A. PLEASE CHECK ONE OF THE FOLLOWING CASE TYPES AND THE FILING FEE

- | | |
|--|--|
| ☐ Direct Appeal | ☐ Added or Omitted Assessment |
| ☐ Appeal from County Tax Board Judgment | ☐ Farmland Qualification |
| ☐ Correction of Error | ☐ Farmland Rollback |
| ☐ Exemption | ☐ Other |

NOTE: In order to proceed in the Small Claims Division, the property at issue must be a class 2 property (1-4 family residence) or a class 3A farm residence or prior year's taxes were less than \$25,000.
See Rule 8:11-(2). Check for Small Claims Division ☐

Filing Fee Submitted
\$

Check / other

Attorney Charge Account #

PART B. FILL IN THE FOLLOWING FOR ALL CASES

1. Plaintiff

Defendant

2. County

Block

Lot

Unit

3. Assessment year(s) in contest

4. Property Address

5. Property Type (check one)

- | | |
|---|--|
| ☐ Industrial | ☐ Multi-Unit Residential (over 4 Units) |
| ☐ 1-4 Family Residence (class 2) | ☐ Vacant Land |
| ☐ Farm Residence (class 3A) | ☐ Farmland |
| ☐ Commercial | ☐ Other |
| ☐ Vacant land used as part of a 1-4 family residence | |

6. Is plaintiff the

☐ Owner ☐ Tenant ☐ Other _____

7. Is an exemption claimed?

☐ Yes ☐ No ☐ Type _____

If more than one assessed property is included in the complaint, are they contiguous and in common ownership?
☐ Yes ☐ No

Attach individual Case Information Statements for each separately assessed parcel. If multiple condominium units, attach the Condominium / Multiple Assessment Schedule.

PART C. FILL IN THE FOLLOWING FOR ALL CASE TYPES EXCEPT FARMLAND ROLLBACK

Assessment for the year set forth in No. 3 above

Original Assessment		County Tax Board Assessment	
Land	\$ _____	Land	\$ _____
Improvements	\$ _____	Improvements	\$ _____
Exemption	\$ _____	Exemption	\$ _____
Total	\$ _____	Total	\$ _____

PART D. FILL IN THE FOLLOWING ONLY FOR FARMLAND ROLLBACK

Year	Non Qualified Assessed Value	Qualified Assessed Value	Assessment Subject to Rollback
	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____

PART E. FILL IN THE FOLLOWING:**FOR ADDED ASSESSMENT ONLY**

Said property is the subject of an added assessment for the assessment year _____ as follows:

Original Assessment		County Tax Board Judgment	
Improvements	\$ _____	Improvements	\$ _____
Prorated Assmt.	\$ _____	Prorated Assmt.	\$ _____
for _____ months		for _____ months	

FOR OMITTED OR OMITTED/ADDED ASSESSMENT ONLY

Said property is the subject of an added assessment for the assessment year _____ as follows:

Original Assessment		County Tax Board Judgment	
Land	\$ _____	Land	\$ _____
Improvements	\$ _____	Improvements	\$ _____
Prorated Assmt.	\$ _____	Prorated Assmt.	\$ _____
for _____ months		for _____ months	

Do you or your client have any needs under the Americans with Disabilities Act? ☐ Yes ☐ No
If yes, please identify any requirements or accommodations you may require.

Will an interpreter be needed? ☐ Yes ☐ No If yes, for what language _____

PLEASE NOTE: Only an interpreter registered with the Administrative Office of the Courts may be used during a court proceeding.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: _____ Signed: _____

Make Filing Fee checks payable to: **Treasurer, State of New Jersey**

Mailing Address: Tax Court Management Office, P.O. Box 972, Trenton, NJ 08625-0972

[Note: Adopted July 23, 2010 to be effective September 1, 2010.]



[Appendix XXVIII-B]
Tax Court of New Jersey

Case Information Statement
Correction of Error in Assessment (CIS-C/E)

INSTRUCTIONS: To be attached to face of complaint (type or print)

Attorney Name (List your information if you are not represented by an attorney)

Street

City

State

Zip

Telephone Number

NOTE: In order to proceed in the Small Claims Division, the property at issue must be a class 2 property (1-4 family residence) or a class 3A farm residence or prior year's taxes were less than \$25,000. See Rule 8:11-2. Check for Small Claims Division ☐

Filing Fee Submitted
\$

Check / other

Attorney Charge Account #

Part A. Fill in the following:

1. Plaintiff

Defendant

2. County

Block

Lot

Unit

3. Assessment year(s) in contest

4. Property Address

5. Property Type (check one)

☐ Industrial

☐ 1-4 Family Residence (class 2)

☐ Farm Residence (class 3A)

☐ Commercial

☐ Vacant Land

☐ Multi-Unit Residential (over 4 Units)

☐ Farmland

☐ Other

6. Is plaintiff the

☐ Owner

☐ Tenant

☐ Other

7. Type of error (check one)

☐ Typographical

☐ Transposition

☐ Other

8. Is any action pending before the Tax Court for above property for a prior year(s)?

☐ Yes

☐ No

Year(s)

9. Is the Verified Affidavit complete and attached to complaint?

☐ Yes

☐ No

Do you or your client have any needs under the Americans with Disabilities Act? If yes, please identify any requirements or accommodations you may require	☐ Yes ☐ No
Will an interpreter be needed? ☐ Yes ☐ No If yes, for what language _____ PLEASE NOTE: Only an interpreter registered with the Administrative Office of the Courts may be used during a court proceeding.	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <u>Rule 1:38-7(b)</u> . Dated: _____ Signed: _____	

Make checks payable to: Treasurer, State of New Jersey
Mailing address: Tax Court Management Office, P.O. Box 972, Trenton, NJ 08625-0972

[Note: Adopted July 23, 2010 to be effective September 1, 2010.]

RPC 5.5. Lawyers Not Admitted to the Bar of This State and the Lawful Practice of Law

(a) . . . no change

(b) A lawyer not admitted to the Bar of this State who is admitted to practice law before the highest court of any other state, territory of the United States, Puerto Rico, or the District of Columbia (hereinafter a United States jurisdiction) may engage in the lawful practice of law in New Jersey only if:

(1) . . . no change

(2) . . . no change

(3) under any of the following circumstances:

(i) . . . no change

(ii) the lawyer engages in representation of a party to a dispute by participating in arbitration, mediation or other alternate or complementary dispute resolution program [, the representation is on behalf of an existing client in a jurisdiction in which the lawyer is admitted to practice, and the dispute originates in or is otherwise related to a jurisdiction in which the lawyer is admitted to practice] and the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which pro hac vice admission pursuant to R. 1:21-2 is required;

(iii) the lawyer investigates, engages in discovery, interviews witnesses or deposes witnesses in this jurisdiction for a proceeding pending or anticipated to be instituted in a jurisdiction in which the lawyer is admitted to practice; [or]

(iv) the lawyer associates in a matter with a lawyer admitted to the Bar of this State who shall be held responsible for the conduct of the out-of-State lawyer in the matter; or

(v) ~~[(iv)]~~ the lawyer practices under circumstances other than (i) through ~~[(iii)]~~ (iv) above, with respect to a matter where the practice activity arises directly out of the lawyer's representation on behalf of an existing client in a jurisdiction in which the lawyer is admitted to practice, provided that such practice in this jurisdiction is occasional and is undertaken only when the lawyer's disengagement would result in substantial inefficiency, impracticality or detriment to the client.

(c) A lawyer admitted to practice in another jurisdiction who acts in this jurisdiction pursuant to [sub-paragraph] paragraph (b) above shall:

(1) be licensed and in good standing in all jurisdictions of admission and not be the subject of any pending disciplinary proceedings, nor a current or pending license suspension or disbarment;

(2) be subject to the Rules of Professional Conduct and the disciplinary authority of the Supreme Court of this jurisdiction;

(3) consent in writing on a form approved by the Supreme Court to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against the lawyer or the lawyer's firm that may arise out of the lawyer's participation in legal matters in this jurisdiction, except that a lawyer who acts in this jurisdiction pursuant to subparagraph (b)(3)(ii) or (b)(3)(iii) above shall be deemed to have consented to such appointment without completing the form;

(4) not hold himself or herself out as being admitted to practice in this jurisdiction;

(5) maintain a bona fide office in conformance with R. 1:21-1(a), except that, when admitted pro hac vice, the lawyer may maintain the bona fide office within the bona fide law office of the associated New Jersey attorney pursuant to R. 1:21-2(a)(1)(B); and

(6) except for a lawyer who acts in this jurisdiction pursuant to subparagraph (b)(3)(ii) or (b)(3)(iii) above, annually register with the New Jersey Lawyers' Fund for Client Protection and comply [complies] with R. 1:20-1(b) and (c), R. 1:28-2, and R. 1:28B-1(e) during the period of practice.

Note: Adopted July 12, 1984 to be effective September 10, 1984; caption amended, former text designated as paragraph (a), and new paragraphs (b) and (c) adopted November 17, 2003 to be effective January 1, 2004; paragraph (c) amended July 28, 2004 to be effective September 1, 2004; subparagraphs (b)(3)(ii) and (b)(3)(iii) amended, former subparagraph (b)(3)(iv) redesignated as subparagraph (b)(3)(v) and amended, new subparagraph (b)(3)(iv) adopted, and paragraph (c) and subparagraphs (c)(3) and (c)(6) amended July 23, 2010 to be effective September 1, 2010.

RPC 7.3. Personal Contact with Prospective Clients

(a) . . . no change

(b) A lawyer shall not contact, or send a written communication to, a prospective client for the purpose of obtaining professional employment if:

(1) . . . no change

(2) . . . no change

(3) . . . no change

(4) . . . no change

(5) the communication involves unsolicited direct contact with a prospective client concerning a specific event not covered by section (4) of this Rule when such contact has pecuniary gain as a significant motive except that a lawyer may send a letter by mail to a prospective client in such circumstances provided the letter:

(i) bears the word "ADVERTISEMENT" prominently displayed in capital letters at the top of the first page of text and on the outside envelope, unless the lawyer has a family, close personal, or prior professional relationship with the recipient; and

(ii) . . . no change

(iii) . . . no change

(c) . . . no change

(d) . . . no change

(e) . . . no change

(f) . . . no change

Note: Adopted July 12, 1984, to be effective September 10, 1984; paragraph (b)(4) amended June 29, 1990, to be effective September 4, 1990; new paragraph (b)(4) adopted and former

paragraph (b)(4) redesignated and amended as paragraph (b)(5) April 28, 1997, to be effective May 5, 1997; paragraph (b)(5) amended November 17, 2003 to be effective January 1, 2004; subparagraph (b)(5)(i) amended July 23, 2010 to be effective September 1, 2010.