A G E N D A

N E W J E R S E Y J U D G E S S E M I N A R

Cherry Hill Inn

Cherry Hill, New Jersey

September 8, 9 and 10, 1971

Wednesday, September 8

8:45 - 9:45 — Registration - *Main Lobby*
Coffee Hour - *Lincoln Room*

10:00 - 11:15 — General Session (All Judges) - *Presidential Suite*

Opening Remarks - Chief Justice Joseph Weintraub

Public Interest Law:
Its Development, Practice and Impact on Funding of Litigation, Courts, Legal Education, Standing, Class Actions, Justiciability, etc.

Moderator: Judge Lawrence A. Carton
Panelists: Monroe H. Freedman
Director, Stern Community Law Firm
Washington, D.C.
Judge Alan Handler
Sanford Jaffe
Ford Foundation
James Paul
Dean, Rutgers School of Law, Newark

11:15 - 11:30 — Coffee Break - *Lincoln Room*

11:30 - 12:30 — Continuation of Morning Session

12:30 - 2:00 — Luncheon - *Colony Room*

11:00 - 11:15	Coffee Break - *Washington Room*
11:15 - 12:30	Continuation of Morning Session
12:45 - 2:00	Luncheon - *Colony Room*
2:00 - 3:30	Group Sessions (Reverse Morning Session)
	Group A: Drug Abuse - *Jefferson Room*
	Group B: Poverty Law - *Lincoln Room*
3:30 - 3:45	Coffee Break - *Washington Room*
3:45 - 5:00	Continuation of Afternoon Session

6:00 P.M. Annual Reception and Dinner (Judges' wives are invited to attend. Retired Judges and their spouses will be guests.)

Cocktails (Dutch Treat) - *States Room*

Dinner - *Colony Room*

Speaker: Nicholas N. De B. Katzenbach

Friday, September 10

8:00 - 9:15 **Continental Breakfast** - *Lincoln Room*

General Session (All Judges) - *Presidential Suite*

Moderator: Judge Merritt Lane, Jr.

9:30 - 10:45 **Divorce Law**

Panelists: Judge William R. J. Burton
Judge William A. Consodine
Judge Morris Hartman

10:45 - 12:00 **Rules Amendments**

Panelists: Judge Curtis Meanor
Richard Thiele
Standing Master Saul Tischler

1:00 - 2:30 **Luncheon and Closing General Session** - *Colony Room*

Presiding: Chief Justice Joseph Weintraub

- REPORT -
OF THE COMMITTEE ON LEGAL ETHICS AND GRIEVANCES
OF THE BAR ASSOCIATION
OF THE DISTRICT OF COLUMBIA
in the matter of
Advertising Conducted By
Monroe H. Freedman
and
The Stern Community Law Firm

OPINION OF THE COMMITTEE*

The Stern Community Law Firm concept is not objectionable, and in fact is praiseworthy. We believe that this new concept has been carefully planned and organized, and is consistent with the spirit and letter of the Code of Professional Responsibility. We believe that the goals are in keeping with the highest responsibilities of the legal profession. We find no ethical objection to the plan with two exceptions: the names of individual attorneys should not appear in advertisements for clients, and assertions that existing laws are invalid or invalidly administered should include words such as "in our opinion."

1. Third Party Control Aspect. We have been assured that once an attorney-client relationship is established, the client has the same right of final decision and control of his case as in the ordinary case. Our approval of the plan depends on this: Neither the Church nor the attorneys acting with the interest of the Church in mind should have the right to control

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* The Committee's Statement of the Facts and excerpts from the Code of Professional Responsibility have been omitted.

or influence the case inconsistently with the desires and best interests, both legal and practical, of the client. We trust the attorneys will serve the clients' interest exclusively, as legal ethics require.

2. Barratry Aspect. While it is desirable to enable the social problems of the times (and particularly government policies addressed to those problems) to be tested against the "public interest" in litigation, there may be concern lest frivolous, parochial, or abstract claims become the subjects of protracted and costly actions which would be burdensome to either public or private defendants. However, we trust that attorneys' customary good judgment and discretion will be exercised in determining which cases are sufficiently important to be made the subject of any "public interest" litigation.

3. Advertising Aspect. To the extent that advertising is conducted in the name of the Stern Community Law Firm, we believe that it does not violate the appropriate ethical considerations.[2/] But where individual attorneys are named in connection with the advertising, we believe and element of personal touting is present, which we find inconsistent with the appropriate ethical considerations. This is particularly so if the individual attorney is likely to be enhanced in reputation or fortune by being so named and his name is not an integral part of the name of the community service law firm. Therefore, we find objectionable the use of the name of an attorney in connection with the Firm's advertising.[3/]

2/ The Committee took a special vote on whether "Stern Community Law Firm" was a permissible name for a public interest law firm to use in practicing law, and the decision was that it was permissible.

3/The Committee took a special vote on whether the attorney's
(continued on page 3)

We recognize that a public law firm seeking clients to attack a given law might well want to convey its belief that the law is unconstitutional, or that it is not being administered in accordance with the intent of the legislators. However, it troubles us to see these assertions being made categorically, as if there were only one side to the matter. Unless the assertion is obviously true, we believe it should appear with words such as "in our opinion". It seems to us that the lawyer's duty to be truthful to the public requires this. Therefore, where the Firm's ad says "none of these [reasons] is a legal reason for preventing you from adopting a child", we find objectionable the omission of words such as "in our opinion".

Aside from the above factors, we can conceive of an ad which would offend good taste and dignity, even though otherwise unobjectionable. For instance, an ad holding the prospective defendant up to ridicule might go too far. Or, the militant and hostile tone of an ad might offend the dignity that should be attached to any public announcement of an attorney or law firm. However, these questions are not presented by the ads that we have reviewed, and so we do not pass upon them. We are of the opinion that the ads that we have reviewed will be reasonably within the bounds of dignity and good taste, when they are corrected to read in accordance with the statements set forth above.

In an interview with Mr. Freedman he took the position

3/(continued) personal name could be used in an advertisement such as the one before the Committee, and the decision was that it could not, regardless of the size or prominence of the type.

that the rule against attorney advertising is unconstitutional, unsound, and honored in the breach. He pointed to Martindale-Hubbell and other law lists, which are available to the public in the sense that banks, insurance companies, credit companies, and other corporations may have copies which lay officers and employees may consult. The possibility that these law lists may be consulted by laymen does not, in our opinion, undermine the rule against advertising. The "cards" that appear in these lists, while we concede there is a strong element of personal puffing, are addressed to other lawyers, not to the public; they do not in fact often fall under the eyes of laymen (because of cost and difficulty of acquisition); their format is restrained (all small, uniform type); and their content is controlled. The Committee is unpersuaded that the time has come to scrap the rule against personal advertising.

A PUBLIC SERVICE LEGAL OPINION ADDRESSED TO

Any D.C. Resident Who Wishes To Adopt a Child

It is a sad fact that the District of Columbia keeps a larger proportion of its children in public institutions than any other American city.

It is also a sad fact that permanent damage is being done to the physical, mental and emotional health of helpless children—children who never asked to be born—whose parents are unable or unwilling to care for them and who are therefore placed in Junior Village or the receiving home or D.C. General Hospital.

One solution to this tragic problem is adoption. But many people who would like to adopt a child have been wrongly discouraged, wrongly led to believe they would not be suitable parents.

Specifically, you may have been told that you are not able to adopt a child if

- You are single
- You are over 45
- You are of a different race or religion than the child
- You have been the child's foster parent
- Both adoptive parents are working.

None of these is a legal reason for preventing you from adopting a child.

An attorney with the Stern Community Law Firm is prepared to provide free legal services to parents who would like to adopt a child as well as to prospective parents who feel they would be unable to care for their children and do not want them sent to a public institution.

We are not a child placement agency, but we want to be sure you know and are granted your rights under the law.

If you want free legal assistance in placing a child in an adoptive or a foster home, please call or write

Monroe H. Freedman, Esquire
Stern Community Law Firm
2005 L Street, N.W.
Washington, D. C. 20036
Telephone: 659-8132

A PUBLIC SERVICE LEGAL OPINION about

YOUR CHILD'S HAZARDOUS TOYS

Following a law suit brought by this Law Firm (*Consumers Union and Children's Foundation* v. *Secretary of HEW*), the Food and Drug Administration found that 38 toys are unreasonably dangerous to children.

The law says that you have a right to return these toys to the store that sold them to you for a full refund of the purchase price.

In our opinion, YOU HAVE THE RIGHT TO GET THE TOYS OUT OF YOUR HOME AND GET YOUR MONEY BACK, RIGHT NOW, despite continued heel-dragging by the FDA and the toy manufacturers in preparing regulations.

Does your child's toybox contain any of these toys that can kill and maim children?

Champion Ring Darts (Haecker Industries)
King Model 1700 Lawn Darts (King Athletic Goods, Inc.)
Javelin Darts (Hasbro Industries)
Lawn Dart (Regent Sports Co.)
Rocket Lawn Dart Set (Town & Country Game Ltd.)
Squeeze "Zoo Zee" (Stahlwood Manufacturing Co.)
"Dizzy Doodle" Doll (Parksmith Corp.)
Rubber squeeze toy football player (Leisure Group)
Kooky Eyes (Azrak-Henway)
Plakai Toy Rolling Pin squeeze toy
Squeeze Toy Pig (J.L. Prescott Co.)
Little Angel Play Ball (Childhood Interests)
Toys for Fun squeeze doll (J.L. Prescott)
Toy Poodle rubber squeeze toy (J.L. Prescott)
Blue Fox Model Youngster Archery Set (Bear Archery Co.)
Fleetwood Archery Cub Archery Set (Fleetwood Archery)
Jerry Pets Stuffed Poodle (Jerry Elsner Co.)
Stuffed Toy Cat (Jensen, Inc.)
"Kooky Eyes" Squeeze Doll (Uneeda Doll Co.)
Star Musical Rattle (Star Manufacturers)
Tumbler Ball Toy (Stahlwood Toy Co.)
"Honey Baby" Doll (P & M Doll Co.)
"Baby Beth" Doll (Allied Doll & Toy Corp.)
"I Cry Mama" Doll (Goldberger Doll Co.)
Little Sophisticate Doll Model #79000 (Uneeda Doll Corp.)
"Candy at Play" Doll (Funworld, Inc.)
"Your Dream Bride" Doll #2080 (Eugene Doll Co.)
"Mini Bend-a-Family" Doll (Pennsick & Godon)
Toy Basket (Funworld, Inc.)
"Jiggly" Rattle (Romar Co.)
"Magic Action Hammer" (Childhood Interests)
Jackie Twisting Waist Doll (Funworld, Inc.)
"Moody" Doll (Holiday Fair, Inc.)
Stuffed Head (George Jensen, Inc.)
Stuffed Toy Dog or Doll (LaMar Toy Co.)
"New Born Baby" T. 80 (Goldberger Doll Co.)
Toy Telephone Rattle (Childhood Interests)
Musical Merry-Go-Round Canelon (F. W. Woolworth)

If the answer is Yes, you can:

- Demand a full refund for the toy from your toy dealer. (You might want to take this Opinion along with you.)
- Call or write this office for further information or legal assistance if your dealer refuses to give you a refund.

STERN COMMUNITY LAW FIRM
2005 L Street, N.W.
Washington, D. C. 20036
Telephone: 659-8132

PRO BONO REPORT

TO THE ABA SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

JULY 1, 1971

Compiled by

PROJECT TO ASSIST INTERESTED LAW FIRMS IN PRO BONO PUBLICO PROGRAMS

Marna S. Tucker, Director
1705 DeSales Street, N.W.
Suite 601
Washington, D.C. 20036
Phone: (202) 223-1337

FORD FOUNDATION FUNDS SECTION TO ASSIST PRIVATE BAR IN PRO BONO DEVELOPMENT

On February 1, 1971, the Section of Individual Rights and Responsibilities undertook its **Project to Assist Interested Law Firms in Pro Bono Publico Programs** financed by a grant from the Ford Foundation. The purpose of the Project is to collect, compile and distribute information to the private sector of the bar about the newly emerging formalized efforts in private firms to handle *pro bono* work, as well as to consult with law firms who wished to develop similar programs.

The inquiries from law firms and bar associations have come from all over the country—including Eugene, Oregon; Yakima, Washington; Albuquerque, New Mexico; Shreveport, Louisiana; Hartford, Connecticut; Cleveland, Ohio; St. Louis, Missouri; and San Antonio, Texas.

The **Pro Bono Report** to the Section is a response to the requests of many Section members, law firms, attorneys and organizations for information on the new developments in the *pro bono* field—including articles on new formalized programs in law firms, coverage of conferences and seminars, law school activities, and pertinent recent articles and publications. It is designed to assist those members of the Section who are interested in exploring *pro bono* efforts and in communicating with and obtaining suggestions from others who have experimented with specific programs. By functioning as an information resource the **Report to the Section** will hopefully serve as a catalyst in generating productive widespread involvement in public service efforts.

NOTES ON PRIVATE LAW FIRMS AND FORMAL PRO BONO PROGRAMS

A number of private law firms have developed formalized *pro bono* programs within their law firms with the idea of increasing the effectiveness of their *pro bono* work. For years, lawyers and law firms across the country have performed extensive *pro bono* work on an individualized, *ad hoc* basis. But the new movement has been toward recognizing and incorporating *pro bono* work into a formal part of the firm's business operations and has resulted in a variety of models of programs. Some of these models have produced particularly noteworthy activities. These programs, which are by no means an exhaustive list of private bar involvement or the extent of *pro bono* work of each individual firm, represent the trend toward formalizing efforts:

Public Interest Coordinator Programs are usually programs where a partner or committee is designated to keep track of *pro bono* work which individual members of the firm are doing on an *ad hoc* non-organized basis. Sometimes, the coordinator handles the intake of new cases. Of interest are the activities which have emerged through public interest coordinator programs:

> **Brobeck, Phleger & Harrison** in San Francisco, has represented a Black redevelopment project in the Western Addition area, and the Richmond Urban Coalition of Contra Costa County in a planned residential complex . . . **Cravath, Swaine & Moore** in New York City,

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has represented the families of students killed in May 1970 at Jackson State College, persons challenging the limitation on the deductibility for tax purposes of child-care expenses of working mothers, and clients in the Bedford-Stuyvesant Development Corporation . . . **Latham & Watkins** in Los Angeles, has acted in an advisory capacity to a minority businessmen's trade association . . . **O'Melveny & Myers** in Los Angeles, has worked with specific poverty cases in coordination with the following groups: Community Pride, Economic Resources Corporation, Greater Los Angeles Urban Coalition, Inc., and Inglewood Neighbors . . . **Schnader, Harrison, Segal and Lewis** in Philadelphia, has succeeded in sustaining the legality of a Police Civilian Review Board, and, in conjunction with the Community Legal Services, has challenged the fees in domestic relations cases . . . **Cleary, Gottlieb, Steen & Hamilton** in New York City, along with providing a firm lawyer to work on a continuous basis with the OEO Neighborhood Legal Services Office, has acted as temporary general counsel to organizations such as the Coalition Venture Corporation and Metropolitan Opportunities, Inc. which finance minority-owned businesses; and has furnished advice to Navajos attempting to establish a Navajo Reservation newspaper and journalism institute.

A **Public Interest Department or Section** is a program designed as a permanent part of the law firm. Usually it is headed full-time by a partner who does only public service work, in a similar manner to other section heads. In most firms, one or more associates are also assigned to the department. Some of the activities of these firms with a public interest or community service department are:

Hogan & Hartson in Washington, D.C., has had a significant victory in a case involving the equalization of school financing and facilities, is acting as legal counsel to a group proposing zoning amendments to require low and moderate income housing in all multi-family and planned unit development districts, and has a case before the U.S. Supreme Court to allow ex-felons to vote in the District of Columbia . . . **Pepper, Hamilton & Scheetz** in Philadelphia, has organized the principal agent in the City for receipt of rental payments held in escrow under the Rent Withholding Statute, provides legal help to non-profit corporations who desire guidance in obtaining IRS tax exemptions as charitable corporations, and has its tax lawyers lecture to legal services and Urban Coalition attorneys on tax exemption procedures . . . **Benesch, Friedlander, Mendelson & Coplan** in Cleveland, Ohio, the most recent law firm to create a separate public interest department has a full-time associate working under the supervision of a partner with plans to engage in community and economic development . . . **Arnold & Porter** in Washington, D.C., who has varied the Public Interest Department model by annually rotating the partner in charge, has represented the Alcatraz Indians in litigation on the construction of power plants on Hopi Indian lands, represented Ralph Nader in a successful suit requiring General Motors to recall and correct unsafe

Continued on page 3, column 1

SEATTLE-KING YLS PROPOSE STATE-LEVEL CENTER FOR PUBLIC INTEREST LAW

The Young Lawyers Section of the **Seattle-King County Bar Association** has proposed a state-level **Center for Public Interest Law** to combine education and advocacy for the public well-being.

The tax-exempt, non-profit organization is seeking foundation or government funds initially, but hopes to quickly develop local contributions from public interest groups and private law firms.

Initially, the staff will include four attorneys and depend upon the resources of private attorneys on a volunteer basis, and non-lawyers as consultants for particular projects.

The Center's lawyers will engage in such areas as environmental and administrative law, performing a type of "consumer protection" function. They will also represent nursing home occupants, migrant workers, parolees, students and Indian tribes.

The Center will have a strong educational emphasis: using a clinical approach to train students with the University of Washington Law School; publishing student/faculty research; and conducting weekly seminars on current projects and creative roles for the lawyer.

L.Q.C. LAMAR SOCIETY ENVISIONS A PUBLIC INTEREST LAW FIRM FOR EACH SOUTHERN STATE

The **L.Q.C. Lamar Society** a southwide private organization of professional doctors, lawyers and educators has chosen as one of its primary activities to promote issues of public concern through the use of lawyers.

The Board of Directors is in the process of formulating plans for a proposal for a public interest law firm in each southern state. Initially, a pilot project in one state is being developed. It is anticipated that the law firm will have at least three lawyers and restrict itself to matters of broad public concern such as environmental law, discrimination against ethnic minorities, and consumer protection as opposed to matters of concern only to individual clients.

One of the possible structures being considered is that the law firm will have as its principal client a tax-exempt corporation devoted to research in broad areas of public concern, which will place the public interest law firm under retainer. The firm is considering accepting other clients on a fee or contingent-fee basis, and in time hopes to become self-sustaining through private funding and contributions from the private bar.

wheels, undertook litigation to enjoin the House Internal Services Committee from publishing a blacklist of college campus speakers . . . **Foley, Hoag & Eliot** in Boston, has handled cases in prison reform such as guaranteeing rights for prisoners to communicate with the media concerning conditions in the prison, along with cases of consumer fraud, and correcting racially imbalanced schools . . . **Hill and Barlow** in Boston, through its Urban & Public Law Department serves as general counsel to a non-profit minority enterprise engaged in the development of low-income housing in Roxbury, works extensively in land use and zoning problems, and is active in representing a women's group in a sex discrimination case.

Public Interest Law Firms are devoted primarily to clients or interests with a public policy need. Frequently, their operations are limited to one or more aspects of public concern such as environment, consumer or health cases. These firms are usually small separate law firms which receive no foundation or government funding. Activities of interest within some of the public interest law firms are:

Berlin, Roisman & Kessler in Washington, D.C., have been successful in employee discrimination cases and are involved in the closing down of a polluting chemical plant, in extensive consumer and conservation cases, and in representation of the National Organization of Women, and National Rural Housing Alliance . . . **Businessmen For The Public Interest** in Chicago, have been active in a Lake Michigan Antipollution Project, hearings in opposition to a nuclear power plant, and actions seeking to correct zoning discrimination . . . **Goldhammer & Horowitz** in Los Angeles, concentrates much of its work in social security and consumer law, and assists community organizations with advice, consultation, and grant applications for federal funds . . . **The Law Commune** in New York City, was recently successful in obtaining the acquittal of 13 Black Panthers in New York State's longest trial . . . **Marmaduke, Aschenbrenner, Merten & Saltveit** in Portland, Oregon, has cases involving employees and Board members of a Migrant Education Program, a suit against General Motors in a carbon monoxide Corvair case, and environmental cases relating to noise pollution, mercury poison and a fish kill.

Some large law firms have established **Branch Offices** in a ghetto or barrio. Sometimes several firms combine to run such offices. The office is usually directed by a partner or experienced associate and other associates are either permanently assigned or rotated through it. Some activities being handled by a branch office are:

Piper & Marbury in Baltimore, has brought one of the first class actions under the new Federal Consumer Credit Act against a ghetto retail establishment, and is attacking the U.S. Post Office procedure whereby federal employees are fired because of failure to pay debts. In a unique situation for *pro bono* cases, although certainly common in paying cases, **Piper and Marbury**

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BEVERLY HILLS BAR ASSOCIATION CREATES NEW PUBLIC INTEREST LAW FOUNDATION

On June 1, the Beverly Hills Bar Association Law Foundation became the first full-time professionally staffed *pro bono* program to be undertaken by a bar association. The Beverly Hills Bar Association got the Project underway with a $15,000 contribution. The Lawyers Wives also voted to contribute one-third of their organization's income to the law firm and private firms are expected to contribute funds as well as manpower for the continued operation.

Mr. Stanley William Levy, former Executive Director of the Western Center on Law and Poverty, is the newly-appointed Executive Director and the operative center will be at 300 S. Beverly Hills Drive, Los Angeles, California.

The legal work of the Foundation will be done by the Director and lawyers who are on 3 to 6 months leave from their law firms, or by lawyers volunteering on appropriate committees. In addition, three area law schools have agreed to supply law students to work on specific projects for course credit, and the Lawyers Wives of the Bar Association have agreed to provide womanpower to do research studies and prepare materials, such as manuals, for the law firm and participating attorneys.

The Foundation's objective is to help restructure governmental administrative and regulatory agencies so they will become more representative, responsive and accountable to the public interest.

It will serve as a coordinator and clearinghouse for public interest activities in California, matching worthwhile public interest groups with lawyers willing to help. This function will be facilitated through a regular public information newsletter.

Volunteer services will be organized through litigation and legal representation committees. Task forces will be composed of senior partners, law students, and law wives.

SOUTHERN CALIFORNIA LAWYERS SEEK FUNDS FOR NEW PUBLIC INTEREST LAW FIRM

A group of young associates of a large law firm in Los Angeles, California have drafted a proposal for a non-profit corporation to provide legal representation directed initially towards environmental problems, and later expanding into consumer protection, population and education problems.

With a staff of five attorneys, **The Southern California Center for Law in the Public Interest** will function as a "public interest law firm" engaging in litigation, influencing governmental administrative agencies, serving as legal counsel to local groups, coordinating existing efforts in public interest matters, and conducting a clinical legal education program for local law students.

Presently, the Center is seeking private funding and would be interested in suggestions or information from similar groups who are seeking funds.

and **Hogan & Hartson** have jointly represented a D.C. resident in a Maryland racial discrimination case against a developer and succeeded in assuring the damage claims of private parties would not be precluded by a consent decree between the Justice Department and the developer . . . **Community Law Offices** in New York City, has over 40 law firms contributing approximately one month of a lawyer's time to the manning of an office in East Harlem. CLO acquaints its volunteers with the principal issues in the poverty law field and provides the necessary resource materials to handle all types of civil and criminal cases . . . **Saul, Ewing, Remick & Saul** in Philadelphia, has recently closed its ghetto office, but is undertaking an evaluation and study for a more comprehensive *pro bono* program; current cases involve attempting to overturn municipal regulations on educable children, and serving as counsel to a self-help medical day-care center.

Some firms formalize their efforts through **Participation with a Legal Services Program.** They may share in the staffing of an existing legal service office for a specified period of time; or a firm may loan one or more attorneys to a legal services program for six months to a year.

Morgan, Lewis & Brockius in Philadelphia, has agreed to furnish two volunteer lawyers to Community Legal Services who serve a six month period as staff attorneys, and has served as counsel for the establishment of a credit union for the tenants of the Philadelphia Housing Authority . . . **Covington & Burling** in Washington, D.C., includes among its extensive *pro bono* work a released-time program, assigning two associates for an extended period of time to the Neighborhood Legal Services Project, and has recently filed a class action which would require an equalization of municipal facilities and services such as fire, medical, and housing for the impoverished residents of Anacostia.

RETIRED NEW YORK ATTORNEYS JOIN THE PRO BONO MOVEMENT

On May 17, the Mayor's Office for Volunteers got a new manpower unit—**the Service Corps of Retired Attorneys.** Organized by Leo M. Drachsler, a retired attorney who felt that retirement was psychologically debilitating to himself and to many lawyer friends, the group has an initial roster of 25.

After several months of investigating possibilities for action, Mr. Drachsler arranged with the Mayor's Office for Volunteers to utilize volunteer lawyers in the overburdened city and private agencies which range from the Addiction Services Agency to the Urban League Street Academies. Serving as the full-time volunteer director, Mr. Drachsler will operate out of the Mayor's Office for Volunteers at 250 Broadway, New York City.

Further exploring possibilities for work in the *pro bono* area, Mr. Drachsler contacted the ABA Pro Bono Project. Several possibilities and suggestions for incorporating the services of retired attorneys in *pro bono* activities were discussed, and the two projects are now actively working together on a proposal for the Service Corps of Retired Attorneys to establish their own public interest law firm. This Project will be the first of its kind, and is an exciting new endeavor towards utilizing the skills and expertise of a heretofore, totally untapped source of volunteer legal assistance.

CHICAGO LAW FIRM INITIATES FOUNDATION FOR THE NEW BUSINESS ETHIC

Downs, Haddix & Schwabb, a private law firm in Chicago, Illinois, founded a non-profit organization, **The Foundation For The New Business Ethic** in February, 1971.

The Foundation acts as a conscience for the corporate community—publishing the results of research projects and presenting specific proposals to the corporate community. All major litigation which develops from the Foundation's investigatory and research group is handled by Downs, Haddix & Schwabb.

The projected financial support for the Foundation will come from individual and foundation contributions; however, presently it is funded by the private law firm.

Current research projects include: Corporate Responsibility, Landmark Preservation, Prison Reform and Credit Bureaus.

The Foundation has a paid staff of four attorneys, 8 researchers and four secretaries. To effectively continue their current projects and to launch new endeavors, they need additional volunteer researchers, secretaries, students and attorneys who will be provided with specific projects.

For further information about the Foundation and membership contact: The Foundation For The New Business Ethic, 33 North Dearborn Street, Suite 720, Chicago, Ill. 60602.

CONCERNED LAWYERS FORM NEW ORGANIZATIONS

New groups of lawyers actively concerned with public service work are being formed with an eye toward assisting the private lawyer in getting involved in the public interest field.

Four cities–Chicago, New York, Los Angeles and Washington have organized Councils of Lawyers with somewhat varied functions:

The **Chicago Council** was organized in the fall of 1969 and now has 1200 members (including students), with an executive secretary to coordinate its activities. The Council organizes and staffs most of its important projects including: publication of a monthly newsletter; working with two Chicago area law schools and the Community Legal Council on a Misdeameanor Appellate Appeal Program; investigating qualifications of magistrates who will be elevated to associate judgeships under the new Illinois constitution; starting a drug abuse program in which attorneys help people who have been arrested for drug offenses; issuing a statement supporting the general principle of no-fault insurance and the reform of automotive reparation litigation; establishment of the Fund for Justice, a corporation designed to do research on various aspects of the judicial system; and the establishment of 12 standing committees which are both research and action-oriented.

The Council of New York Law Associates organized in November 1969, now has over 1400 members, with a full-time coordinator whose salary and office facilities are paid for by the New York City Bar. Primarily, the Council acts as a "neutral forum" and its main purpose is information dissemination about *pro bono* projects and public interest cases to which lawyers can be directed.

Their activities include: publication of a newsletter which acts as a clearinghouse; organizing a series of luncheons each month featuring prominent speakers; organizing a staff of lawyer observers to act as marshalls during political demonstrations.

The **Council of Lawyers of Los Angeles** is about six months old and has approximately 125 members, mostly from major law firms. It provides an outlet for lawyers who desire to become involved in public interest work through a series of tasks forces on: Pollution; California Prisons System; Student Demonstrations, Union Discriminatory Practices and Education. The Los Angeles Council has recently testified on legislation.

The **Washington Council of Lawyers** was organized in March 1971 and has a membership of approximately 250. It is a non-partisan association open to all lawyers in the Washington area.

Activities of the Council will include: placing members in contact with existing organizations in need of volunteer lawyers; providing opportunities for its members to speak out on and litigate public interest questions; reexamining the standards of professional responsibility; removing barriers to full participation of women and minority groups in the profession; evaluating judicial appointments; monitoring government agency activities; doing research and preparing legislation; providing legal observers for political demonstrations; publishing a monthly newsletter, sponsoring meetings, speeches and discussions. The Council recently provided legal observers for the "Mayday Demonstrations" and will soon issue a report on its observations.

OREGON STATE BAR AND D.C. BAR ASSOCIATION TO DEVELOP GUIDELINES FOR PUBLIC INTEREST FIRMS

For over a year, the Oregon State Bar has been engaged in an ongoing dialogue with attorneys from legal services programs and *pro bono* law firms to maintain an awareness of the developing problems of these programs. Recently, the Board of Governors of the State Bar met with representatives of the two "pro bono" law firms in Portland with the idea of developing possible guidelines to deal with the potential problems of advertising, solicitation, and champerty and maintenance. The Board of Bar Governors then requested the firms to submit suggestions on what could be done.

The law firm of Marmaduke, Aschenbrenner, Merten & Saltveit submitted a position paper, presently under consideration by the Bar, which proposes a certification system by the Bar Association for public interest law firms. The proposal defines a public interest law firm as one where at least 50% of the attorney time in the firm is devoted to matters in the public interest (compensated and non-compensated time), and where the members of the firm commit themselves to a low net income level "commensurate with the ideal of serving the public interest rather than the economic interest of the members". The theory is that if the income of the members would be limited, the profit motive would be curtailed and thus normal objections to solicitation and advertising would be obviated. Their proposed guidelines would allow for solicitation in specifically defined public interest cases, and would allow for advertising the public interest specialty.

The proposed guidelines would go beyond the recent District of Columbia Bar Association decision which approved a specific advertisement for clients in newspapers, magazines, and radio by a public interest law firm that did not charge fees. The opinion is interim in nature until such time as the D.C. Bar Association develops overall ethical guidelines for the operation of public interest law firms.

LAW STUDENT CORNER

A Law Student's Viewpoint

By Art Smith
First Vice-President
ABA-Law Student Division

Since the latter half of the 1960's, the attitudes evidenced by many law students and young lawyers have undergone fundamental changes with respect to their conceptions of the interdependence of law and society. Vast numbers of these young people are no longer completely enthralled by the profit motive and are revulsed by the fact that throughout most of this country's history more than ninety percent of the lawyers' time has been devoted to the problems of less than ten percent of the people. These persons are primarily interested in turning their energies and talent toward the solution of the legal crises that envelop the contemporary scene—in the cities, in the marketplace, in the environment, in the courts, in public services, and in the corporate-governmental arenas.

How significant is this trend and how large a portion of the young lawyer population does it materially effect? This question may not be completely answered for years, but there are indications that these changing attitudes are having substantial effects with respect to the professional roles of many bright young lawyers.

- —Young lawyers are turning down starting salaries of 13, 14, and 15 thousand dollars a year in leading law firms to work for the poverty program, VISTA, and the Peace Corps.
- —Harvard Law School reports that the percentage of its graduates entering private law practice declined from 65% in 1950 to 41% in 1968.
- —Yale Law School reports a reduction of 41% in 1968 to 31% in 1969 of its graduates entering private law practice.
- —None of the 39 law review editors who graduated from Harvard Law School last year entered private law practice.
- —75 young lawyers worked without salary during the summer of 1969 as part of Ralph Nader's "Raiders", to investigate how well the public interest was being served by government agencies and prominent Washington law firms.

Perhaps of even greater significance is the observation by the Chancellor of Duke University, A. Kenneth Pye, that disinterest in practice with large metropolitan law firms appears to be increasingly significant among present law graduates. United States Solicitor General Erwin Griswold, formerly Dean of Harvard Law School, agreed with this observation when he commented upon the "decline in the relative importance of private law practice as we have known it in the past".

What are the implications of these changing conceptions of young lawyers? At least two are evident. The first, which is purely pragmatic, suggests that law firms if they are to continue to attract the most capable young attorneys, will have to broaden their base of representation and institute substantial public interest programs.

The second implication involves the fundamental question of whether the legal profession will respond to its social responsibilities and provide mechanisms that will allow the talents and energies of these young attorneys to be brought to bear on the great human and social problems of our day. Lawyers must realize that our society has grown so complex that individuals and institutions can no longer simply pursue their own parochial interests irrespective of the larger problems of contemporary society. Many law students and young lawyers realize this and are determined to utilize their energies and talents in efforts to solve these problems. Rarely has the need been so great for the lawyer's skill and craft to be applied to the burning political and social crises of our society.

Unfortunately, however, there is a paucity of career opportunities that enable young attorneys to devote substantial portions of their time to public interest work. Many law students now feel an angry despair over the lack of opportunities for young lawyers to play positive and meaningful roles within the profession. It is my opinion that the legal profession could do an abundant amount of social good if it were to provide a sufficient number of career opportunities whereby this new breed of public-spirited young lawyers could work in behalf of the public interest. Former Association President Bernard G. Segal expressed his feelings about opportunities facing the legal profession when he commented upon the "capacity of lawyers--working through the law and legal processes and imbued with a passion for justice and the will to see justice done—to bring about profoundly needed reforms in our system".

College Campuses Initiate Public Interest Groups

Students and communities have begun organizing their own public interest research groups to represent the concerns of college students and work for constructive social change to benefit all citizens of their state.

Minnesota Public Interest Research Group

In Minnesota, students voted to support a state-wide public interest research group and are now in the process of collecting funds.

Many private lawyers across the country have wanted to handle far-reaching public interest cases, but have been hampered in their efforts because of the expense and unavailability of research and studies in crucial areas. With the rapid emergence of research groups, it can be expected that where legal action is appropriate, lawyers will now be able to undertake cases which never could have been undertaken before.

CONFERENCES AND SEMINARS REFLECT RISING INTEREST IN PRO BONO WORK

Conferences and Seminars dealing with various aspects of *pro bono* and public interest work are proliferating all across the country.

On April 22-24 at Airlie House in Warrenton, Virginia, the **Center for Law and Social Policy** of Washington, D.C. sponsored a **"Seminar on the Bar and the Public Interest".** Over 60 public-interest oriented lawyers attempted to analyze existing public and private institutions with a view toward evaluating their past performance and future potential for providing representation to segments of the community which have previously been unrepresented or under-represented.

Edgar Cahn, Director of the **Citizens Advocate Center** in Washington, D.C., keynoted a spirited discussion on the needs and priorities of the public interest field. Points of conflict and coalescence were discussed by various representatives of poverty, civil rights, consumer, civil liberties and ecology constituencies.

Ed Sparer, Professor of Law at the University of Pennsylvania and Director of the **Health Law Center** joined with **Dr. George Wiley,** Executive Director of the **National Welfare Rights Organization** in highlighting a discussion on the relationship between public interest lawyers and their clients or the community. The problems of accountability of a lawyer to a client constituency were outlined. **Theodore Jacobs,** of the **Center for the Study of Responsive Law** led off a discussion of the major problem of many public interest law firms—financing. Representatives from several foundations exchanged views about the future of foundation-funded public interest law firms. The Seminar concluded with a skillful weaving of the various themes discussed into some long and short-range plans by **Professor Anthony Amsterdam** of Stanford Law School.

Materials on the proceedings of the Seminar are being developed and will be available from the **Center for Law and Social Policy,** 1600 Twentieth Street, N.W., Washington, D.C. 20009.

The **ACLU of Louisiana** sponsored a **Seminar on Public Interest, Poverty and Class Action Law** on May 8 in New Orleans.

Speakers from around the country discussed the practical and bread-and-butter aspects of handling cases involving Women's Rights, Title VII employment discrimination, consumer protection, class actions draft counseling, environment, Civil Rights Act Setion 1983 actions, and other statutory remedies involving attorney's fees.

Over 200 attorneys from around the state heard **Marshall Grossman,** the counsel in the popular Playboy Club class action suit, carefully detail ways to handle class action suits effectively. **Benjamin E. Smith,** the former General Counsel of the ACLU of Louisiana, highlighted the rights of Union members against their Unions and their pension funds.

The subject matter of the conference has national appeal to all attorneys interested in public interest work. The ABA *Pro Bono Project* is transcribing the proceedings of the Seminar and will make the finalized materials available on request.

State and local Bar Associations are noticeably enticed by the *pro bono* activities developing across the country. Some of the most recent flutterings of interest come from the heartland of the country.

The **Columbus, Ohio Bar Association** discussed the topic of **"Pro Bono Publico"** at its May 5 luncheon meeting. Marna S. Tucker, Project Director for the ABA *Pro Bono Publico* Programs, spoke to the Association about private and bar association involvement in *pro bono* programs.

Following the speech, the Law and Poverty Committee of the Bar Association met and discussed plans for future participation by the private bar with the Columbus Legal Aid Society on an ongoing basis, and the development of panels of lawyers in particular areas of interest, such as housing discrimination cases.

The **Florida Bar** held a **Public Relations Workshop** in Miami on June 16 at its annual convention. As part of the workshop the attorneys discussed various public service projects that could be undertaken by law firms and bar associations.

The **San Antonio Bar Association** in Texas featured *pro bono* and public interest law firms at its monthly luncheon on June 15.

The **Young Lawyers Committee of the Association of the Bar of the City of New York** is planning a **Fall Symposium** which will be a follow-up to their November, 1970 Symposium which included a section on *pro bono* work entitled **"To Represent The Public Interest".** Copies of the transcript of the 1970 Symposium are available from the ABA Pro Bono Project.

The ABA Committee on Housing and Urban Law held a seminar on **"The Lawyers and Housing and Urban Development"** in St. Louis, Missouri on April 21-22.

Over 300 lawyers, more than 50 of whom were minority lawyers and students attended the seminar. As a result of the conference, which focused on the social, economic, and legal aspects of housing law, over 25 communities have requested information on exploring the possibility of developing housing programs.

Highlight speeches of the seminar were given by **Jim Kobb, President-Elect of the National Bar Association,** on minority lawyer involvement; and **Bruce Lane,** a public interest attorney in Washington, D.C., who emphasized the social responsibility of the private practitioner in the housing area.

The Directors of five housing projects currently in operation spoke to the group about the much needed involvement of the organized bar in housing development, particularly low-cost housing, and essentially on a *pro bono* basis.

MPIRG will be a non-profit, non-partisan organization representing the students and their concerns including consumer protection, resource planning, occupational safety, protection of natural areas and environmental quality, delivery of health care and community housing problems.

The group is being funded by a special voluntary fee of one dollar per quarter. MPIRG will be directed by a statewide board of student-elected representatives.

The MPIRG Board of Directors will hire a professional staff consisting of ten to fifteen full-time positions, including lawyers, natural and social scientists, engineers and other experts in the applied sciences to publish research findings and recommendations for public action, to provide representation before government administrative and regulatory agencies, to provide law reform through legislative action, and, where necessary, legal action through the courts.

Oregon Student Public Interest Research Group

In Oregon, students are collecting funds for the Oregon Students Public Interest Research Group. A majority of the 54,000 students in the state system of higher education have signed a petition asking for a one dollar increase in student fees to fund and direct a professional staff which will research problems in the public interest area.

OSPIRG will operate similarly to the Minnesota Public Interest Research Group.

Both OSPIRG and MIPRG were initially stimulated by the Public Interest Research Group in Washington, D.C., an organization funded and directed by Ralph Nader. The **University of Illinois**, The **University of Indiana**, and **St. Louis University** are also presently involved in planning and organizing similar public interest research groups.

The **University of Connecticut** and the **University of Ohio** are also forming public interest programs which will be coordinated and funded by both the student body and the community in which the university is located.

As a result of the upsurge of interest in the formation of public interest research groups, the **University of Minnesota** hosted a **Mid-June Conference** for all the Big Ten Schools interested in starting some type of public interest program.

University of California NonProfit Law Firm

The student body of the University of California voted to finance a non-profit public interest law firm "to protect consumers and the environment" on May 31, 1971.

The firm will be independent from the University and plans to hire attorneys for the main legal work. They will file suits aimed at stopping pollution, deceptive advertising, unjust insurance rates and other consumer fraud.

Recent Articles and Publications On Pro Bono Matters

Recently, there has been a significant increase in the number of Law Review and popular articles and publications relating to public interest and *pro bono* work which indicates the widening circle of concern for public service work.

A Bibliography on Selected Articles may be obtained from the ABA *Pro Bono* Project. Other recent articles of interest include: "New Lawyers In Old Firms", *New York Times*, Feb. 3, 1971, which concerns law student motivation and concern for public interest work; "The New People", *Glamour Magazine*, April, 1971, which talks about the work and life-style of the New York City Law Commune lawyers; and "Lawyers Choice", *Forbes Magazine*, April, 1971, which discusses law students' actual commitment to public interest work when it comes to practical and financial decisions upon graduation.

Additional articles will also be appearing soon in the Sunday *New York Times Magazine*, the *Wall Street Journal* and *Fortune Magazine*.

Pro Bono Report To The
Section of Individual Rights and Responsibilities
American Bar Association
1705 DeSales Street, N.W.
Suite 601
Washington, D.C. 20036

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CHAPTER 210

AN ACT concerning landlord and tenant, supplementing chapter 42 of Title 2A of the New Jersey Statutes and repealing "An act relating to disorderly persons and supplementing chapter 170 of Title 2A of the New Jersey Statutes," approved October 5, 1967 (P. L. 1967, c. 215).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C. 2A:42-10.10 Notice to quit or action to recover premises prohibited under certain circumstances.

1. No landlord of premises or units to which this act is applicable shall serve a notice to quit upon any tenant or institute any action against a tenant to recover possession of premises, whether by summary dispossess proceedings, civil action for the possession of land, or otherwise:

a. As a reprisal for the tenant's efforts to secure or enforce any rights under the lease or contract, or under the laws of the State of New Jersey or its governmental subdivisions, or of the United States; or

b. As a reprisal for the tenant's good faith complaint to a governmental authority of the landlord's alleged violation of any health or safety law, regulation, code or ordinance, or State law or regulation which has as its objective the regulation of premises used for dwelling purposes; or

c. As a reprisal for the tenant's being an organizer of, a member of, or involved in any activities of, any lawful organization; or

d. On account of the tenant's failure or refusal to comply with the terms of the tenancy as altered by the landlord, if the landlord shall have altered substantially the terms of the tenancy as a reprisal for any actions of the tenant set forth in subsection a, b, and c of section 1 of this act. Substantial alteration shall include the refusal to renew a lease or to continue a tenancy of the tenant without cause.

Under subsection b of this section the tenant shall originally bring his good faith complaint to the attention of the landlord or his agent and give the landlord a reasonable time to correct the violation before complaining to a governmental authority.

A landlord shall be subject to a civil action by the tenant for damages and other appropriate relief, including injunctive and other equitable remedies, as may be determined by a court of competent jurisdiction in every case in which the landlord has violated the provisions of this section.

C. 2A:42-10.11 Judgment for tenant under certain circumstances.

2. In any action brought by a landlord against a tenant to recover possession of premises or units to which this act is applicable, whether by summary dispossess proceedings, civil action for the possession of land, or otherwise, judgment shall be entered for the tenant if the tenant shall establish that the notice to quit, if any, or the action to recover possession was intended for any of the reasons set forth in subsections a, b, c, or d of section 1 of this act.

LANDLORD AND TENANT—SECURITY DEPOSITS

CHAPTER 223

SENATE NO. 904

An Act concerning security deposits and to amend and supplement "An act concerning leasehold estates in relation to deposits to secure performance of leases, and supplementing chapter 8 of Title 46 of the Revised Statutes," approved January 8, 1968 (P.L.1967, c. 265).

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1967, c. 265 (C. 46:8-19) [28] is amended to read as follows:

Whenever money or other form of security shall be deposited or advanced on a contract, lease or license agreement for the use or rental of real property as security for performance of the contract, lease or agreement or to be applied to payments upon such contract, lease or agreement when due, such money or other form of security, until repaid or so applied including the tenant's portion of the interest earned thereon as hereinafter provided, shall continue to be the property of the person making such deposit or advance and shall be held in trust by the person with whom such deposit or advance shall be made for the use in accordance with the terms of the contract, lease or agreement and shall not be mingled with the personal property or become an asset of the person receiving the same. The person receiving money so deposited or advanced shall deposit such money in a banking institution or savings and loan association in this State insured by an agency of the Federal Government in an account bearing interest at the rate currently paid by such institutions and associations on time or savings deposits and shall thereupon notify in writing each of the persons making such security deposit or advance, giving the name and address of the banking institution in which the deposit of security money is made, and the amount of such deposit.

All of the money so deposited or advanced may be deposited by the person receiving the same in one interest-bearing account as long as he complies with all the other requirements of this act.

The person receiving money so deposited or so advanced shall be entitled to receive as administration expenses, a sum equivalent to 1% per annum thereon which shall be in lieu of all other administrative and custodial expenses. The balance of the interest paid thereon by such banking institution or savings and loan association, hereinafter referred to as tenant's portion, shall belong to the person making the deposit or advance and shall be credited toward the payment of rent due on the renewal or anniversary of said tenant's lease*

2. Section 2 [29] of P.L.1967, c. 265 (C. 46:8-20) is amended to read as follows:

Any person, whether the owner or lessee of the property leased, who or which has or hereafter shall have received from a tenant or licensee a sum of money as a deposit or advance of rental as security for the full performance by such tenant or licensee of the terms of his contract, lease or license agreement, or who or which has or shall have received the same from a former

28. N.J.S.A. 46:8-19.
29. N.J.S.A. 46:8-20.

owner or lessee, shall, upon conveying such property or assigning his or its lease to another, or upon the conveyance of such property to another person by a court in an action to foreclose a mortgage thereon, at the time of the delivery of the deed or instrument or assignment, or within 5 days thereafter, or in the event of the insolvency or bankruptcy of the person receiving said deposit, within 5 days after the making and entry of an order of the court discharging the receiver or trustee, deal with the security deposit in one of the three following ways:

(a) Turn over to his or its grantee or assignee, or to the purchaser at the foreclosure sale the sum so deposited, plus the tenant's portion of the interest earned thereon, and notify the tenant or licensee by registered or certified mail of such turning over and the name and address of such grantee, assignee or purchaser.

(b) Return the sum so deposited, plus the tenant's portion of the interest earned thereon, to such tenant or licensee, less any charges expended in accordance with the terms of a contract, lease, or agreement or to his appointee or designee duly authorized in writing by such tenant to receive the same.

(c) Retain the sum so deposited, plus the tenant's portion of the interest earned thereon, and notify the tenant or licensee by registered or certified mail of such conveyance or assignment and the name and address of the grantee, assignee, or purchaser at the foreclosure sale, as the case may be, and of the fact that he or it, as such former landlord, has retained the sum so deposited, plus the tenant's portion of the interest earned thereon.

3.[30]

Within 30 days after the expiration of the term of the tenant's lease or licensee's agreement, the owner or lessee shall return by personal delivery, registered or certified mail the sum so deposited plus the tenant's portion of the interest earned thereon, less any charges expended in accordance with the terms of a contract, lease, or agreement. Any such deductions shall be itemized and the tenant or licensee notified thereof by registered or certified mail. In any action by a tenant or licensee for the return of moneys due under this section, the court upon finding for the tenant or licensee shall award recovery of double the amount of said moneys, together with full costs of any action.

4.[31]

An owner or lessee may not require more than a sum equal to 1½ times 1 month's rental according to the terms of contract, lease, or agreement as a security for the use or rental of real property used for dwelling purposes.

5. Section 3 of P.L.1967, c. 265 (C. 46:8-21)[32] is amended to read as follows:

Any owner or lessee turning over to his or its grantee, assignee, or to a purchaser of the leased premises at a foreclosure sale the amount of such security deposit, plus the tenant's portion of the interest earned thereon, is hereby relieved of and from liability to the tenant or licensee for the repayment thereof; and the transferee of such security deposit, plus the tenant's portion of the interest earned thereon, is hereby made responsible for the return thereof to the tenant or licensee, in accordance with the terms of the contract, lease, or agreement unless he or it shall thereafter and before the expiration of the term of the tenant's lease or licensee's agreement, transfer such security deposit to another, pursuant to section 2 hereof and give the requisite notice in connection therewith as provided thereby.

30. N.J.S.A. 46:8-21.1.
31. N.J.S.A. 46:8-21.2.
32. N.J.S.A. 46:8-21.

Security deposits made prior to the effective date of this act shall comply with the provisions of this act within 90 days of the effective date thereof.

7. Section 8 of P.L.1967, c. 265 (C. 46:8-26)[34] is amended to read as follows:

The provisions of this act shall apply ~~only to owners of residential rental property consisting of more than four rental units~~ to all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

8. This act shall take effect immediately.

Approved and effective June 21, 1971.

LANDLORD AND TENANT—ACTIONS FOR MAINTENANCE OF SAFE AND SANITARY HOUSING

CHAPTER 224[35]

SENATE NO. 2237

An Act promoting safe and sanitary housing for tenants of substandard dwellings and supplementing chapter 42 of Title 2A of the New Jersey Statutes.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds:

a. Many citizens of the State of New Jersey are required to reside in dwelling units which fail to meet minimum standards of safety and sanitation;

b. It is essential to the health, safety and general welfare of the people of the State that owners of substandard dwelling units be encouraged to provide safe and sanitary housing accommodations for the public to whom such accommodations are offered;

c. It is necessary, in order to insure the improvement of substandard dwelling units, to authorize the tenants dwelling therein to deposit their rents with a court appointed administrator until such dwelling units satisfy minimum standards of safety and sanitation.

2. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context.

a. "Public officer" shall mean the officer, officers, board or body who is or are authorized by the governing body of a municipality to supervise the physical condition of dwellings within such municipality pursuant to this act.

b. "Owner" shall mean the holder or holders of the title in fee simple.

c. "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a dwelling, and who are in actual

33. N.J.S.A. 46:8-21.1.
34. N.J.S.A. 46:8-26.
35. N.J.S.A. 2A:42-85 to 2A:42-97.

possession thereof and any person authorized to receive rents payable for housing space in a dwelling.

d. "Dwelling" means and includes all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

e. "Housing space" means that portion of a dwelling rented or offered for rent for living or dwelling purposes in which cooking equipment is supplied, and includes all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with the use or occupancy of such portion of the property. The term shall not mean or include public housing or dwelling space in any hotel, motel or established guest house, commonly regarded as a hotel, motel or established guest house, as the case may be, in the community in which it is located.

f. "Bureau of Housing Inspection" means the Bureau of Housing Inspection in the Division of Housing and Urban Renewal in the Department of Community Affairs.

g. "Division of Local Finance" means the Division of Local Finance in the Department of Community Affairs.

h. "Substandard dwelling" means any dwelling determined to be substandard by the public officer.

i. "State Housing Code" means the code adopted by the Bureau of Housing Inspection pursuant to P.L.1966, c. 168 (C. 2A:42-74 et seq.).

3.

A proceeding by a public officer, tenant, or tenants of a dwelling for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing codes or regulations may be maintained in a court of competent jurisdiction. The place of trial of the proceeding shall be within the county in which the real property or a portion thereof from which the rents issue is situated.

4.

The public officer or any tenant occupying a dwelling may maintain a proceeding as provided in this act, upon the ground that there exists in such dwellings or in housing space thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

5.

a. A proceeding prescribed by this act shall be commenced by the service of a petition and notice of a petition. A notice of petition may be issued only by a judge or a clerk of the court.

b. Notice of the proceeding shall be given to the nonpetitioning tenant occupying the dwelling by affixing a copy of the petition upon a conspicuous part of the subject dwelling.

6.

The petition shall:

a. Set forth material facts showing that there exists in such dwelling or any housing space thereof one or more of the following: a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

b. Set forth that the facts shown in subsection a. of this section have been brought to the attention of the owner or any individual designated by

him as the manager of said dwelling and that he has failed to take any action thereon within a reasonable period.

c. Set forth that the petitioner is a tenant of the subject dwelling or is the public officer of the municipality in which the subject dwelling is located.

d. Set forth a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.

e. Set forth the amount of rent due from each petitioning tenant, if any, monthly.

f. State the relief sought.

7.

It shall be a sufficient defense to the proceeding, if the owner or any mortgagee or lienor of record establishes that:

a. The condition or conditions alleged in the petition did not in fact exist or that such condition or conditions have been removed or remedied; or

b. Such condition or conditions have been caused maliciously or by abnormal or unusual use by a petitioning tenant or tenants or members of the family or families of such petitioner or petitioners.

c. Any tenant or resident of the dwelling has refused entry to the owner or his agent to a portion of the premises for the purpose of correcting such condition or conditions.

8.

The court shall proceed in a summary manner and shall render a judgment either:

a. Dismissing the petition for failure to affirmatively establish the allegations thereof or because of the affirmative establishment by the owner or a mortgagee or lienor of record of a defense or defenses specified in this act; or

b. Directing that (1) the rents due on the date of the entry of such judgment from the petitioning tenant, if any, and the rents due on the dates of service of the judgment on all other tenants occupying such dwelling, from such other tenants, shall be deposited with the clerk of the court; (2) any rents to become due in the future from such petitioner and from all other tenants occupying such dwelling shall be deposited with such clerk as they fall due; (3) such deposited rents shall be used, subject to the court's direction, to the extent necessary to remedy the condition or conditions alleged in the petition and (4) upon the completion of such work in accordance with such judgment, any remaining surplus shall be turned over to the owner, together with a complete accounting of the rents deposited and the costs incurred; and granting such other and further relief as to the court may seem just and proper. A certified copy of such judgment shall be served personally upon each nonpetitioning tenant occupying such dwelling. If personal service on any such nonpetitioning tenant cannot be made with due diligence, service on such tenant shall be made by affixing a certified copy of such judgment on the entrance door of such tenant's apartment and, in addition, within 1 day after such affixing, by sending a certified copy thereof by registered mail, return receipt requested, to such tenant. Any right of the owner or parties in interest of such dwelling to collect such rent moneys from any petitioning tenant of such dwelling on or after the date of entry of such judgment, and from any nonpetitioning tenant of such dwelling on or after the date of service of such judgment on such nonpetitioning tenant as herein provided, shall be void and unenforceable to the extent that such petitioning or nonpetitioning tenant, as the case may be, has deposited such moneys with the clerk of the court in accordance with the terms of such judgment, regardless of whether such right of the owner arises from a lease, contract, agreement or understanding heretofore or hereafter made or entered into or arises as a matter of law from the relationship of the parties or otherwise. Any such rent moneys

received by the owner or parties in interest shall be deposited immediately with the clerk of the court by such owner or parties in interest. It shall be a valid defense in any action or proceeding against any such tenant to recover possession of real property for the nonpayment of rent or for use or occupation to prove that the rent alleged to be unpaid was deposited with the clerk of the court in accordance with the terms of a judgment entered under this section.

9.

a. If, after a trial, the court shall determine that the facts alleged in the petition have been affirmatively established by the petitioner, that no defense thereto specified in this act has been affirmatively established by the owner or a mortgagee or lienor of record, and that the facts alleged in the petition warrant the granting of the relief sought, and if the owner or any mortgagee or lienor of record or parties in interest in the property, shall apply to the court to be permitted to remove or remedy the conditions specified in such petition and shall (1) demonstrate the ability promptly to undertake the work required; and (2) post security for the performance thereof within the time, and in the amount and manner deemed necessary by the court, then the court, in lieu of rendering judgment as provided in this act, may issue an order permitting such person to perform the work within a time fixed by the court.

b. If, after the issuance of an order pursuant to subdivision a. of this section, but before the time fixed in such order for the completion of the work prescribed therein, it shall appear to the petitioner that the person permitted to do the same is not proceeding with due diligence, the petitioners may apply to the court on notice to those persons who have appeared in the proceeding for a hearing to determine whether judgment should be rendered immediately as provided in subdivision c. of this section.

c. If, upon a hearing authorized in subdivision b. hereof, the court shall determine that such owner, mortgagee, lienor or parties in interest is not proceeding with due diligence, or upon the failure of such owner, mortgagee, lienor or parties in interest to complete the work in accordance with the provisions of said order, the court shall render a final judgment appointing an administrator as authorized in this act. Such judgment shall direct the administrator to apply the security posted by such person to the removing or remedying of the condition or conditions specified in the petition. In the event that the amount of such security should be insufficient for such purpose, such judgment shall direct the deposit of rents with the clerk, as authorized by this act, to the extent of such deficiency. In the event that such security should exceed the amount required to remove or remedy such condition or conditions, such judgment shall direct the administrator to file with the court, upon completion of the work prescribed therein, a full accounting of the amount of such security and the expenditures made pursuant to such judgment, and to turn over such surplus to the person who posted such security, together with a copy of such accounting.

d. The court is authorized and empowered, in implementing a judgment rendered pursuant to this act, to appoint an administrator who may be a public officer of the municipality wherein the subject dwelling is situated, an incorporated or unincorporated association, or other responsible person or persons, except that no owner, mortgagee or lienor of the subject dwelling shall be appointed an administrator of said dwelling.

The administrator is authorized and empowered, subject to the court's direction, to receive from the clerk such amounts of rent moneys or security deposited with said clerk as may be necessary to remove or remedy the condition or conditions specified in the judgment.

10.

The court shall require the keeping of written accounts itemizing the receipts and expenditures under an order issued pursuant to this act, which

shall be open to inspection by the owner, any mortgagee or lienor or parties in interest in such receipts or expenditures. Upon motion of the court or the administrator or of the owner, any mortgagee or lienor of record or of parties in interest, the court may require a presentation or settlement of the accounts with respect thereto. Notice of a motion for presentation or settlement of such accounts shall be served on the owner, any mortgagee or other lienor of record who appeared in the proceeding and any parties in interest in such receipts or expenditures.

11.

The court may allow from the rent moneys or security on deposit a reasonable amount for the services of an administrator appointed under the provisions of this act. The administrator so appointed shall furnish a bond, the amount and form of which shall be approved by the court. The cost of such bond shall be paid from the moneys so deposited.

12.

Any provision of a lease or other agreement whereby any provision of this act for the benefit of a tenant, resident or occupant of a dwelling is waived, shall be deemed against public policy and shall be void.

13.

Owners of dwelling units subject to the provisions of this act shall register with the clerk of the municipality upon forms prescribed by and furnished by the Director, Division of Local Finance. Every registration form shall include the name and address of the owner and the name and address of an agent in charge of the premises residing in the municipality in which said premises are located. Said form shall be distributed by the Director, Division of Local Finance, within 60 days after the effective date of this act.

14.

This act shall take effect immediately.

Approved and effective June 21, 1971.

FORCIBLE AND UNLAWFUL ENTRY AND DETAINER

CHAPTER 227

ASSEMBLY NO. 2233

An Act concerning unlawful entry and detainer of real estate, amending N.J.S. 2A:39–1, 2A:39–2, 2A:39–6, and 2A:39–8.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. N.J.S. 2A:39–1 [40] is amended to read as follows:

No person shall enter upon or into any real property or estate therein and detain and hold the same, except where entry is given by law, and then only in a peaceable manner. With regard to any real property occupied solely as a residence by the party in possession, such entry shall not be made in any manner without the consent of the party in possession unless the entry and detention is made pursuant to legal process as set out in N.J.S. 2A:18–53 et seq. or 2A:35–1 et seq.

39. N.J.S.A. 17:12B–148.
40. N.J.S.A. 2A:39–1.

2. N.J.S. 2A:39-2 [41] is amended to read as follows:

If any person shall enter upon or into any real property and detain or hold the same ~~with force, whether or not any person be in it, by any kind of violence whatsoever, or by threatening to kill, maim or beat the party in possession, or by such words, circumstances or action as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then, by force or frightening by threats, or by other circumstances of terror, turning the party out of possession,~~ with force, whether or not any person be in it, by any kind of violence whatsoever, or by threatening to kill, maim or beat the party in possession, or by such words, circumstances or action as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then, by force or frightening by threats, or by other circumstances of terror, turning the party out of possession, such person shall be guilty of a forcible entry and detainer within the meaning of this chapter. With regard to any real property occupied solely as a residence by the party in possession, if any person shall enter upon or into said property and detain or hold same in any manner without the consent of the party in possession unless the entry is made pursuant to legal process as set out in N.J.S. 2A:18-53 et seq. or 2A:35-1 et seq., such person shall be guilty of an unlawful entry and detainer within the meaning of this chapter.

3. N.J.S. 2A:39-6 [42] is amended to read as follows:

Any forcible unlawful entry and detainer, forcible detainer and unlawful detainer as defined in this chapter shall be cognizable before the district court or the Superior Court, Chancery Division of the county in which it is committed, and the court may hear and determine an action therefor in a summary manner.

4. N.J.S. 2A:39-8 [43] is amended to read as follows:

In any action under this chapter, a plaintiff recovering judgment shall be entitled to ~~treble costs and to delivery of possession, as in the case of other actions for the possession of real property~~ possession of the real property and shall recover all damages proximately caused by the unlawful entry and detainer including court costs and reasonable attorney's fees. When a return to possession would be an inappropriate remedy, treble damages shall be awarded in lieu thereof. The judgment may be enforced against either party in a summary manner by any process necessary to secure complete compliance therewith, including the payment of the costs.

5.

This act shall take effect immediately.

Approved and effective June 21, 1971.

41. N.J.S.A. 2A:39-2.
42. N.J.S.A. 2A:39-6.
43. N.J.S.A. 2A:39-8.

LANDLORD AND TENANT—DISTRAINT FOR RENT

CHAPTER 228

ASSEMBLY NO. 2234

An Act abolishing distraint for rent of premises under certain circumstances and amending N.J.S. 2A:33-1.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. N.J.S. 2A:33-1 [44] is amended to read as follows:

Distraints may be taken when authorized by law; but no unreasonable, excessive or wrongful distraint shall be taken, and for any such taking, the distraining party shall be liable in damages to the party aggrieved.

No distraint shall be permitted for money owed on a lease or other agreement for the occupation of any real property used solely as a residence of the tenant.

2.[45]

This act shall take effect immediately and shall apply to all leases or agreements entered into after the effective date of this act.

44. N.J.S.A. 2A:33-1.
45. N.J.S.A. 2A:33-1 note.

NEW JERSEY STATE DEPARTMENT OF HEALTH

Division of Narcotic and Drug Abuse Control
P. O. Box 1540
Trenton, New Jersey 08625
609-292-5760

CURRENT NEW JERSEY DRUG ABUSE PROGRAMS AND ACTIVITIES

I. STATE PROGRAM UNDER CHAPTER 226, P.L. 1964 (R.S. 30:6C-1 et. seq.)

A. Substance Dependency Section

1. New Jersey Neuro-Psychiatric Institute
Skillman, New Jersey
609-466-0400

76 beds-12 female, 64 male; inpatient mental hospital staffing pattern; thin layer and gas chromatography lab; detoxification services; methadone loading services for maintenance research program; psychiatric, psychological and social services.

B. County Drug Abuse Clinics

All County Clinics funded under Chapter 226, P.L. 1964, are presently operating or are in the process of implementing methadone maintenance services.

1. Outpatient methadone maintenance station-clinic for the New Jersey Neuro-Psychiatric Institute
1100 Raymond Boulevard
Newark, New Jersey
201-649-2020

Methadone dispensing services; social casework services; urine monitor.

2. Bergen County Narcotic Clinic
Bergen Pines County Hospital
Paramus, New Jersey
201-261-9000

County Psychiatric Hospital Outpatient Clinic setting; outreach services; family and community involvement; detoxification services in medical ward; urine monitor; methadone maintenance service.

3. Burlington County Drug Abuse Clinic
118 High Street
Mount Holly, New Jersey 08060
609-267-3610

Day Center Therapeutic Community; outreach and induction services; urine monitoring; methadone maintenance services.

4. Camden County Drug Abuse Clinic
212 South Broadway
Camden, New Jersey 08103
609-541-8780

Community outreach and induction services; urine monitoring; social casework; day center activities; methadone maintenance service.

5. Cumberland County Drug Abuse Clinic
Cumberland County Guidance Center
821 Church Street
Millville, New Jersey
609-825-0117

Outreach; community intervention detoxification; urine monitoring and methadone maintenance services.

6. Essex County Drug Abuse Clinic
Essex County Hospital
Cedar Grove, New Jersey 07009
201-483-1505

DANA Clinic
222 Morris Avenue
Newark, New Jersey
201-642-7763

Coordinated services with the County Probation Department; psychological and social casework services; induction services for N.A.R.A. patients; urine monitoring services; methadone maintenance service.

7. Hudson County Drug Abuse Clinic
350 Johnston Avenue
Jersey City, New Jersey
201-435-9630

Outreach center for New Jersey Regional Drug Abuse Agency. Intake, screening, referral, and counseling services.

8. Mercer County Drug Abuse Clinic
132 Perry Street
2nd Floor
Trenton, New Jersey
609-989-8000 Extension 455

Outreach; case finding services; methadone maintenance services; social casework services; urine monitoring.

9. Middlesex County Narcotic Clinic
Roosevelt Hospital
Metuchen, New Jersey
201-247-1000

North Brunswick Day Center (Middlesex County Satellite Unit)
Georges Road
North Brunswick, New Jersey
201-247-6727

Psychiatric and medical social services; day center therapeutic community in North Brunswick; outreach and induction services; urine monitoring; aftercare services for N.A.R.A. patients from Lexington Federal Hospital; methadone maintenance services.

10. Morris County Drug Abuse Clinic
All Souls Hospital
Morristown, New Jersey
201-267-2006

Social psychiatric approach; case identification services; urine monitoring community prevention program; methadone maintenance service.

11. Passaic County Drug Abuse Clinic
323 Main Street
Paterson, New Jersey
201-279-9116

Storefront, mental health treatment approach; methadone

maintenance services; urine monitoring; aftercare services for N.A.R.A. patients from Lexington Federal Hospital.

12. Somerset County Drug Abuse Clinic
74 East High Street
Somerville, New Jersey 08876
201-725-4000

Outreach; detoxification; urine monitoring; methadone maintenance; aftercare services.

13. Union County Narcotic Clinic
43 Rahway Avenue
Elizabeth, New Jersey
201-353-4225

Plainfield Area Narcotic Clinic (Union County Satellite Unit)
519 North Avenue
Plainfield, New Jersey
201-561-1603

Integrated probation-psychiatric control and treatment approach; outreach and induction services in Plainfield area; methadone maintenance.

In addition to the County Clinics offering methadone maintenance services, the following stations or clinics have been established under a special methadone maintenance project.

1. Hunterdon County Clinic
Hunterdon Medical Center
Flemington, New Jersey 08822
201-782-2121

2. Kearny Methadone Maintenance Clinic
645 Kearny Avenue
Kearny, New Jersey
201-991-2973

3. NARCO
2006 Baltic Avenue
Atlantic City, New Jersey 08401
609-345-4035

4. Patrick House
287 Clerk Street
Jersey City, New Jersey 08822
201-434-2130

C. Detoxification Services at the State Hospitals

1. Ancora State Hospital
Hammonton, New Jersey 08037
609-561-1700

2. Greystone Park State Hospital
Morris Plains, New Jersey 07951
201-538-1800
(not presently operational)

3. Trenton State Hospital
Sullivan Way
Trenton, New Jersey 08625
609-396-8261

II. NEW JERSEY REGIONAL DRUG ABUSE AGENCY

Burma Road, P. O. Box 4099
Jersey City, New Jersey 07305
201-451-2275

A nonprofit corporation with special funding under the 1966 Amendments to the O.E.O. Act. Department of Health is fiscal intermediary for Federal funds.

A. Liberty Park Residential Rehabilitation Center

Burma Road, P. O. Box 4099
Jersey City, New Jersey 07305
201-451-2275

225 Bed Therapeutic Community.

B. Outreach Centers

1. Hoboken Outreach Center
104 Jefferson Street
Hoboken, New Jersey
201-798-8850

2. Jersey City Outreach Center
350 Johnston Avenue
Jersey City, New Jersey
201-435-9630

3. Liberty House I
125 16th Avenue
Newark, New Jersey
201-242-1268

4. Liberty House II
154 Broadway
Newark, New Jersey
201-481-3220

5. Union City Outreach Center
507 26th Street
Union City, New Jersey
201-867-0364

C. Treatment Approach

Voluntary program involving professionally supervised therapeutic community with outreach centers screening the street and referred addicts for commitment into the program.

The program includes medical detoxification, urine testing, peer interaction group therapy, technical job training, vocational rehabilitation, attitudinal and sensitivity training services.

D. Extensive Involvement in Community Organization and Preventive Education

III. THE NEW JERSEY COLLEGE OF MEDICINE AND DENTISTRY

Newark, New Jersey

As of September 1, 1969, the Narcotic Addiction Treatment Project, funded by N.I.M.H. Staffing Grant 1-H19 17843-01 and sponsored by the Division of Drug Abuse in the Department of Public Health and Preventive Medicine of the New Jersey College of Medicine, became operational. This Project is primarily designed for the greater Model City area of Newark. For treatment purposes, the College through its Martland Hospital unit is providing detoxification and intercurrent medical services. Six affiliated agencies, Odyssey House, Integrity Inc., The New Well, Drug Addiction Rehabilitation Enterprise, Inc., New Jersey Methadone Research Project, Skillman, New Jersey, and the Mount Carmel Guild will provide outreach induction screening services in their respective agencies or at the Martland Hospital. The same affiliate agencies will also provide the necessary aftercare and/or community residential services. The New Jersey Regional Drug Abuse Agency, though not an affiliate of this Project, is coordinating its services with the Project.

A. Martland Medical Center

Drug Abuse Clinic
65 Bergen Street
Newark, New Jersey
201-643-8800 Extension 711

IV. MARLBORO STATE HOSPITAL

Marlboro Narcotic Addiction Rehabilitation Project
Discovery House
Marlboro, New Jersey
201-946-9444

N.I.M.H Grant matched with State funds to establish a therapeutic community in a State hospital to treat and rehabilitate drug dependent persons.

Potential addict residents are recruited from the streets through 19 Monmouth County Community Action stations and three Project Outreach Centers strategically located throughout Monmouth County. Detoxification and intercurrent medical services are contracted with the Drug Dependent Section of the New Jersey Neuro-Psychiatric Institute, Skillman, New Jersey.

Addicts diagnosed or determined as not amenable for therapeutic community approach may be offered methadone maintenance approach or other suitable treatment and rehabilitation modalities.

Extensive community prevention and training sub-projects are included in this program.

A. Marlboro Project Outreach Centers

1. Asbury Park Outreach Center
802 Main Street
Asbury Park, New Jersey
201-775-3400

2. Freehold Outreach Center to open in April

3. Long Branch Outreach Center
366 West Street
Long Branch, New Jersey
Family and Children Service

4. Neptune Outreach Center
1140 Corlies Avenue
Neptune, New Jersey
201-988-4422

V. PRIVATE PROGRAMS

A. D.A.R.E. – Drug Addiction Rehabilitation Enterprise

1. D.A.R.E.
209 Littleton Avenue and
211 Littleton Avenue
Newark, New Jersey 07103
201-642-7411 (24-hour number)

2. D.A.R.E. (Residential)
Halfway House
Island Heights, New Jersey
201-244-5600

3. D.A.R.E. (Residential)
Turrell House
19 High Street
Orange, New Jersey
201-642-7411

Addict and ex-addict self-help program with Central Office, outreach units and residential centers in Newark, a residential halfway house operation in Island Heights. The program is funded by private and N.I.M.H. support.

The program offers medical care; urine analysis; modified Daytop Village approach of induction; treatment and aftercare services in the community.

B. D.A.R.E. Outreach Centers

1. South Plainfield Outreach Center
2480 Plainfield Avenue
South Plainfield, New Jersey
201-754-5109

2. Summit Outreach Center
16 Maple Street
Room 207
Summit, New Jersey
201-273-3900 (24-hour number)

3. Vailsburg Outreach Center
Kilburn Memorial Church
Norwood and South Orange Avenue
Newark, New Jersey
201-372-1064

C. Daytop Village Outreach Center

1. Daytop Village
431 Princeton Avenue
Trenton, New Jersey
609-394-3203

Outreach center in Trenton for Daytop Village, Inc., Residential Center, Staten Island, New York.

D. Daytop Village

1. Daytop Village, Inc. (Residential)
Staten Island, New York

E. Englewood Drug Abuse Program

1. Englewood Drug Abuse Program
11 North Dean Street
Englewood, New Jersey 07631
201-569-0022

Induction; referral; counseling and 24-hour emergency telephone services; detoxification services available at Englewood Hospital.

F. Integrity, Inc.

1. Integrity, Inc.
45 Lincoln Park
Newark, New Jersey
201-623-0600

2. Integrity, Inc.
97 Lincoln Park
Newark, New Jersey
201-623-0600

3. Integrity Youth Facility
661 High Street
Newark, New Jersey
201-623-0600

Residential self-help house with cost sharing and interaction supportive program. Funded by N.I.M.H. Grant and private donations and grants.

G. Monsignor Wall Social Service Center

1. Monsignor Wall Social Service Center
25 Hudson Street
Hackensack, New Jersey
201-342-2200 Extensions 564-567 (day)
201-342-2565 (24-hour, 7 day week)

Induction services for Bergen County residents; intake interviews and psychological testing to determine appropriate treatment and rehabilitation regimen and approach. Funded through contract with the County of Bergen.

H. Mount Carmel Guild Narcotic Rehabilitation Center, Newark

1. Mount Carmel Guild
9 South Street
Newark, New Jersey
201-623-5313

The program consists of individual and group therapy and counseling in all areas of addict rehabilitation. The program is planned to be included in the Mount Carmel Guild Community Mental Health Center. This agency is funded by diocese and Federal support.

I. NARCO

1. NARCO
2006 Baltic Avenue
Atlantic City, New Jersey 08401
609-345-4035

Case finding services; urine monitoring; ex-addict and professional services; privately funded self-help group. At present is seeking further funding through the County and the State.

J. New Well

1. New Well
569 Springfield Avenue
Newark, New Jersey 07103
201-242-0715

New Well (New Well Satellite)
East Orange Branch
70 North Grove Street
East Orange, New Jersey
201-674-5544

A day center self-help program in Newark with a satellite unit, supplementary staffing funds from the National Institute of Mental Health. The program offers detoxification; urine analysis; case finding; self-help therapies and vocational guidance and job placement.

K. Northside Addicts Rehabilitation Center

1. Northside Addicts Rehabilitation Center
96 Jefferson Street
Paterson, New Jersey
201-752-6595

Private and Model City funded 10 bed residential and outpatient services; professionally supervised ex-addict staff.

L. Odyssey House

1. Odyssey House
61 Lincoln Park
Newark, New Jersey
201-642-6550

This is a privately and federally funded affiliate agency of the New Jersey Medical School Narcotic Project. It became operational in October, 1969. Its treatment philosophy is a psychiatrically supervised therapeutic community with 60 beds.

M. Operation Concern

1. Operation Concern
96 3rd Avenue
Haddon Heights, New Jersey
609-547-5731

Day center for adolescent drug abusers.

N. St. Dismas Hospital for Drug Addicts, Paterson

1. St. Dismas Guild
396 Straight Street
Paterson, New Jersey 07501
201-525-1858

This is a residential treatment privately operated hospital; work therapy; psychological testing and group therapy offered on nondenominational basis. Families of addict residents are directed to attend group therapies. Privately and contractually funded.

O. Teen Challenge

1. Teen Challenge Central Jersey, Inc.
646 Broadway
Long Branch, New Jersey 07740
201-222-1448

Affiliated with Teen Challenge International. Residential treatment program based on religious experiences.

2. Teen Challenge North Jersey Chapter
39 Broadway
Paterson, New Jersey
201-742-8955

Privately operated church related affiliate operation of Teen Challenge, Inc., Brooklyn, New York

MARRIAGE—DIVORCE AND ANNULMENT

CHAPTER 212

ASSEMBLY NO. 1100

An Act concerning actions for divorce and nullity of marriage, alimony, maintenance and custody of children, and amending N.J.S. 2A:34–1 through 2A:34–3, 2A:34–7 and 2A:34–8, 2A:34–20 and 2A:34–23 and repealing N.J.S. 2A:34–4, 2A:34–5, 2A:34–9, 2A:34–10 and 2A:34–22.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. N.J.S. 2A:34–1 [47] is amended to read as follows:

Causes for judgments of nullity.

Judgments of nullity of marriage may be rendered in all cases, when:

a. Either of the parties has another wife or husband living at the time of a second or other marriage;

b. The parties are within the degrees prohibited by law. If any such marriage shall not have been annulled during the lifetime of the parties the validity thereof shall not be inquired into after the death of either party.

c. The parties, or either of them, were at the time of marriage physically and incurably impotent, provided the party making the application shall have been ignorant of such impotency or incapability at the time of the marriage, and has not subsequently ratified the marriage.

d. The parties, or either of them, lacked capacity to marry due to want of understanding because of mental condition, or the influence of intoxicants, drugs, or similar agents; or where there was a lack of mutual assent to the marital relationship; duress; or fraud as to the essentials of marriage; and has not subsequently ratified the marriage.

e. The demand for such a judgment is by the wife or husband who was under the age of 18 years at the time of the marriage, unless such marriage be confirmed by her or him after arriving at such age.

f. Allowable under the general equity jurisdiction of the Superior Court.

2. N.J.S. 2A:34–2 [48] is amended to read as follows:

Causes for divorce from bond of matrimony.

Divorce from the bond of matrimony may be adjudged for the following causes heretofore or hereafter arising:

a. Adultery;

b. Willful and continued desertion for the term of 12 or more months, which may be established by satisfactory proof that the parties have ceased to cohabit as man and wife;

c. Extreme cruelty, which is defined as including any physical or mental cruelty which endangers the safety or health of the plaintiff or makes it improper or unreasonable to expect the plaintiff to continue to cohabit with the defendant; provided that no complaint for divorce shall be filed until after 3 months from the date of the last act of cruelty complained of in the complaint, but this provision shall not be held to apply to any counterclaim;

d. Separation, provided that the husband and wife have lived separate and apart in different habitations for a period of at least 18 or more consecutive months, provided further that after the 18-month period there shall be a presumption that there is no reasonable prospect of reconciliation;

e. Voluntarily induced addiction or habituation to any narcotic drug as defined in the New Jersey Controlled Dangerous Substances Act, P.L.1970,

47. N.J.S.A. 2A:34–1.
48. N.J.S.A. 2A:34–2.

c. 226 or habitual drunkenness for a period of 12 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;

f. Institutionalization for mental illness for a period of 24 or more consecutive months subsequent to marriage and next preceding the filing of the complaint;

g. Imprisonment of the defendant for 18 or more consecutive months after marriage, provided that where the action is not commenced until after the defendant's release, the parties have not resumed cohabitation following such imprisonment;

h. Deviant sexual conduct voluntarily performed by the defendant without the consent of the plaintiff.

3. N.J.S. 2A:34–3 [49] is amended to read as follows:

Causes for divorce from bed and board.

Divorce from bed and board may be adjudged for the same causes as divorce from the bonds of matrimony whenever both parties petition or join in requesting such relief and they or either of them present sufficient proof of such cause or causes to warrant the entry of a judgment of divorce from the bonds of matrimony, provided further that in the case of a reconciliation thereafter the parties may apply for a revocation or suspension of the judgment, and provided further that the granting of a bed and board divorce shall in no way prejudice either party from thereafter applying to the court for a conversion of said divorce to a divorce from the bonds of matrimony, which application shall be granted as a matter of right.

4. N.J.S. 2A:34–7 [50] is amended to read as follows:

Certain defenses abolished.

Recrimination, condonation and the clean hands doctrine are hereby abolished as defenses to divorce from the bonds of matrimony or from bed and board, and if both parties make out grounds for a divorce, a decree may be granted to each; provided that nothing herein shall preclude or abrogate the responsibility of a party for the penalty provided by law for perjury or the subornation of perjury.

5. N.J.S. 2A:34–8 [51] is amended to read as follows:

Jurisdiction stated.

The Superior Court shall have jurisdiction of all causes of divorce, bed and board divorce, or nullity when either party is a bona fide resident of this State. The Superior Court shall have jurisdiction of an action for alimony and maintenance when the defendant is subject to the personal jurisdiction of the court, is a resident of this State, or has tangible or intangible real or personal property within the jurisdiction of the court. The Superior Court may afford incidental relief as in other cases of an equitable nature and by rule of court may determine the venue of matrimonial actions.

6. N.J.S. 2A:34–10 [52] is amended to read as follows:

Jurisdiction in actions for divorce; service of process; residence requirements.

Jurisdiction in actions for divorce, either absolute or from bed and board, may be acquired when process is served upon the defendant as prescribed by the rules of the Supreme Court, and

1. When, at the time the cause of action arose, either party was a bona fide resident of this State, and has continued so to be down to the time of the commencement of the action; except that no action for absolute divorce shall be commenced for any cause other than adultery, unless one of the parties has been for the 1 year next preceding the commencement of the action a bona fide resident of this State; or

49. N.J.S.A. 2A:34–3.
50. N.J.S.A. 2A:34–7.
51. N.J.S.A. 2A:34–8.
52. N.J.S.A. 2A:34–10.

2. When, since the cause of action arose, either party has become, and for at least 1 year next preceding the commencement of the action has continued to be, a bona fide resident of this State.

7. N.J.S. 2A:34-20 [53] is amended to read as follows:

Effect of judgment.

A child heretofore or hereafter born of parents who prior or subsequent to the birth of such child have entered into a civil or religious marriage, or shall have consummated a common-law marriage where such marriage is recognized as valid, in the manner authorized by the law of the place where such marriage takes place, is the legitimate child of both natural parents notwithstanding that such marriage is void or voidable or has been or shall hereafter be annulled or judicially declared void.

Nothing in this amendatory act shall be deemed to affect the construction of any will or instrument heretofore executed or any property right or interest or right of action vested or accrued or to limit the operation of any judicial determination containing an express provision or provisions with respect to the legitimacy, maintenance or custody of any child, or to affect any adoption proceeding heretofore commenced, or limit the effect of any judgment or order entered in such adoption proceedings.

8. N.J.S. 2A:34-23 [54] is amended to read as follows:

Alimony; maintenance; custody and maintenance of children; security; failure to obey order; sequestration; receiver; modification of orders.

Pending any matrimonial action brought in this State or elsewhere, or after judgment of divorce or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

In all actions brought for divorce, divorce from bed and board, or nullity the court may award alimony to either party, and in so doing shall consider the actual need and ability to pay of the parties and the duration of the marriage. In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce or divorce from bed and board where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the plaintiff to pay in determining an amount of maintenance to be awarded.

In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of

53. N.J.S.A. 2A:34-20.
54. N.J.S.A. 2A:34-23.

the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage.

9.

Repealer.

The following sections [55] are repealed: N.J.S. 2A:34-4, 2A:34-5, and 2A:34-22.

10. [56]

This act shall take effect 90 days after enactment.

Approved June 14, 1971.

Some questions which will have to be resolved regarding disposition of property in divorce proceedings under new Divorce Act.

By Saul Tischler, Standing Master
New Jersey Supreme Court

Does statutory provision apply to property acquired by spouse before effective date, September 13, 1971, of Divorce Reform Act or only to property acquired after such date?

Does the act apply to marriages before the effective date of the act or only to those after the effective date of the act?

If applicable to marriages prior to the act and to property acquired prior to the effective date of the act, does not the distribution of property of a spouse amount to the taking of property without due process?

Does the act apply to annulments?

Is personal service on defendant required for division of property?

What property is included within the words "legally and beneficially acquired by them or either of them during marriage"?

Does it include:

(a) Property acquired by gift, devise or inheritance?

(b) Property purchased during marriage with money produced by a sale of property owned by a spouse prior to marriage?

(c) Property exchanged for one owned prior to marriage?

(d) Property contracted to be purchased before marriage and title taken by one spouse after marriage?

(e) Property acquired by gift or bequest during marriage for services rendered by spouse during marriage?

(f) Property acquired before marriage which produces income during marriage and income accumulated? Suppose income sufficient to purchase property is that property included?

(g) Spouse injured prior to marriage and recovers damages after marriage?

(h) Spouse holds a mortgage or lien on property prior to marriage and acquires title to property after marriage?

(i) Suppose antenuptial agreement between intended spouses waives right to property during marriage or on death or divorce?

(j) Suppose one person owns vacant land prior to marriage and improved after marriage. Is the improved property included or will the value be prorated?

(k) Does property include life insurance policies, pensions, annuities, retirement pay, old age benefits, Social Security benefits, E Bonds, clothing, furniture and jewelry?

(l) Suppose one spouse has entered land adversely prior to marriage but statute of limitations expires after marriage. Is this land included?

(m) If one spouse had a life insurance policy prior to marriage and it matures after marriage, are proceeds acquired during marriage?

(n) If one spouse is injured during marriage and recovers workmen's compensation benefits or damages are they included?

(o) Must one spouse make contributions to acquisition of property or will household duties suffice?

(p) Is statute recognition of de facto partnership between husband and wife?

(q) What is effect of disposition of "so-called" marital property during marriage by one spouse?

(r) May court enjoin disposition of property pending divorce proceedings?

(s) What should be the basis for division? What percentage? May one spouse be given all property? What factors should be considered by court? Length of marriage? Fault? Net value of assets? Age of parties? Earning power after divorce? Social rank and position? Contributions to purchase price? Marriage one of convenience or love? Interest of State and society? Needs of each spouse? Effect of division on ability to pay alimony and support for children? Conduct of spouses during marriage? Gifts from one spouse to the other during marriage? Loss of dower and curtesy? Alimony?

(t) Should division of property be determined with same factors as alimony? Should tax features be considered?

(u) Problems of proof. Will extensive interrogatories be used? Will discovery be allowed freely as to assets acquired in marriage? Will reliance be on presumptions that property in possession of spouse was acquired in marriage?

(v) Can distribution of property be modified as in the case of alimony?

(w) What effect if parties legally separated and then property acquired? Must court at time of divorce divide property or may it reserve it for disposition after divorce or after time for appeal elapses?

(x) If no alimony allowed may there be a division of property?

Method of Division:

(A) Undivided interests in property?

(B) Actual division?

(C) Sale and division of proceeds?

(D) If wife allowed house can husband be required to pay mortgage installments?

(E) Can possession be given to one and title retained by other?

(F) May property be transferred to one and lien imposed for definite sum on property for benefit of other spouse?

(G) Give one spouse property and order payment of sum to the other?

(H) Can lump sum payment be awarded to one in lieu of share of property?

(I) Can payment of interest in property be made by annual or semi-annual payments to spouse?

(J) What effect if one party incompetent?

(K) What is effect of death of spouse to whom payments ordered? Remarriage?

(L) Suppose only property owned is income producing such as a nursing home and payments needed for alimony?

Will court approve a settlement agreement for division? May it be modified by court subsequently for change of circumstances?

How will the division be enforced? Contempt? Compel conveyance?

Summary of Statutory Requirements as to Division of Property upon Divorce.

By Saul Tischler, Standing Master N.J. Supreme Court

Alaska - Stat (1970) § 0955.210

Divide all property without regard to fault as may be just.

Arizona - Rev. Stat. (1956) § 25-318

Division of property as seems just and right without compelling divestment of title to separate property.

Arkansas - Stat. Ann. (1962 Rep.) § 34-1214

Restore property acquired from either party during marriage. Wife entitled to one-third of personal and real property.

California - Civil Code (1971) § 4800

Divide community and quasi community property equally.

Colorado - Rev. Stat. (1963) § 46-1-5

Division of property in such proportions as may be fair and equitable.

Connecticut - Gen. Stat. Ann. (1961) § 46-22(a)

Restoration of property to one granted divorce received from spouse in consideration of marriage.

Delaware - Code Ann. (1970) § 13-1531

Wife, except if for non-age or voluntary separation, shall be allowed out of husband's estate share that is reasonable. At suit of husband or wife except as provided wife may be allowed share deemed reasonable.

District of Columbia - Code (19[illegible]) § 16-910

Property held jointly or as tenants by the entirety dissolved and awarded to one entitled to it or apportioned as seems equitable, just and reasonable.

Georgia - Code Ann. (1969) § 30-209

Jury may award alimony out of corpus of estate of husband according to condition of husband.

Hawaii - Rev. Stat. (1968) § 580-47

All property may be divided as appears just and equitable.

Idaho - Code (1969) § 32-712

Community property assigned in such proportions as the court, from facts and conditions of the parties deems just.

Illinois - Smith-Hurd Ann. Stat. (1956) Title 40 § 18

If it appears one holds title equitably belonging to other may order it conveyed to other.

Iowa - Code Ann. (1970) § 598.21

Upon dissolution court may make such order as to property as shall be justified.

Kansas - Stat. Ann. (1970) § 60-1610(b)

All property acquired before and after marriage divided in a just and reasonable manner.

Kentucky - Rev. Stat. (1962) § 403.065

Restore property acquired from other by reason of marriage.

Louisiana - West's Civil Code (1952) Art. 2406

The effects which compose the partnership or community of gains, are divided in two equal portions between husband and wife, at the dissolution of the marriage; and it is the same with respect to profits which both brought in marriage.

Maine - Rev. Stat. Ann. (1964) Title 19 §§ 721, 723

If for fault of husband, wife entitled to 1/3 of husband's real estate and restoration of property. Husband entitled to 1/3 of real estate of wife except wild lands, and so much of personal estate of wife as shall seem reasonable.

Maryland - Ann. Code (1966 Repl.) Art. 16 § 29

Court may make division of property as court deems proper.

Michigan - Stat. Ann. (1957) §§ 25.133, 25.136

Property owned as joint tenants or by the entirety may be awarded to one or any part to one. Husband may be awarded all wife's property or such portion as may appear equitable if husband contributed towards acquisition or accumulation thereof.

Minnesota - Stat. Ann. (1971) §§ 518.58, 518.59

All property acquired during marriage may be disposed between parties as appears just and reasonable having regard to nature and determination of issues, amount of alimony, how acquired, who paid and charges or liens on property and all circumstances of case. All furniture and household goods may be awarded to either. Also may award to either spouse property not acquired during marriage, not exceeding one-half, as the court deems just and reasonable, having regard to amount decreed out of property acquired during marriage, alimony, character and situation of parties, nature of issues and all circumstances of case.

Nebraska - Rev. Stat. (1960) §§ 42-321, 42-322

Innocent party not entitled to any interest in real estate unless awarded a share. When husband obtains divorce for wife's adultery, court may award him such part of wife's personal estate as court deems just and reasonable under all circumstances.

Nevada - Rev. Stat. (1967) § 125.150

In addition to alimony may award such part of community property as appears just and equitable having regard to merits of parties, conditions which they will be left, and to party through whom property acquired and burdens imposed for children.

New Hampshire - Rev. Stat. (1968) §§458-19, 458-22

Restoration to wife all or part of her estate and given part of estate of husband. Upon divorce husband shall have part of wife's estate as alimony.

New Jersey - N.J.S.A. 2A:34-23 (1971)

In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance to effectuate an equitable distribution of the property, both real and personal which was legally and beneficially acquired by them or either of them during marriage.

New Mexico - Stat. (1954) § 22-7-11

Division of community property of parties as shall seem necessary or advisable.

New York - McKinney's Cons. Laws (1964) § 234 Domestic Relations Law

Court may determine questions of title to property and award possession to one having regard to circumstances of case and parties.

North Dakota - Cent. Code (1960) § 14-05-24

Equitable distribution of property of parties as shall deem just and proper.

Oklahoma - Stat. Ann. (1961)§§ 12-1278 -1275

When divorce for fault of husband wife restored to her property and division of property acquired jointly during marriage, whether title in one or the other, as appears just and reasonable. If for fault of wife husband may receive such part of wife's separate estate as may be proper for him and support of children. If both parties in equal wrong no basis for refusal of divorce but if grants divorce

to both parties, court may make equitable disposition of property of parties or either of them, as may be proper, equitable and just, having due regard to time, manner of acquisition and whether title in either or both.

Oregon - Rev. Stat. (1969) § 107.280

Such division as may be just and proper in all circumstances.

Pennsylvania - Purdon's Penn. Stat. Ann. (1971) Title 23 § 55

Court may determine and dispose of property rights between parties.

Puerto Rico - L. Ann. (1967) Title 31 § 381

Divorce carries with it a division of property between parties equally.

South Dakota - Comp. Laws (1967) § 25-4-44

When divorce court has the power to make equitable division of property belonging to either or both, having regard to equity and circumstances of the parties.

Tennessee - Code Ann. (1951) § 36-821

Court may decree to wife such part of husband's property as it thinks proper, looking at property husband received at time of marriage from wife.

Texas - Family Code L. 1969 c.888 § 3.63

Court may order estate of parties divided in such manner as court deems just and right, having regard to rights of each party and children.

Utah - Code Ann. (1971) § 30-3-5

Court may make order in relation to property as may be equitable. Subject to change as reasonable and necessary.

Vermont - Stat. Ann. (1958) Title 15 § 751

Disposition of property as shall appear just and equitable having regard to merits of parties, condition which they will be left and through whom property acquired and burdens imposed for children.

Virgin Islands - Code Ann. (1957) Title 16 §109

To wife, if not at fault, her personal property in control of husband.

Virginia - Code (1970) § 20-107

On divorce court may make further decree concerning estate and maintenance of parties.

Washington - Rev. Code Ann. (1961) § 26.08.110

May make disposition of all property, community or separate, as appears just and equitable having regard to merits of parties, conditions after divorce, through whom property acquired and burdens imposed for children.

West Virginia - Code Ann. (1971) § 48-2-21

May award property to either which is in control of other.

Wisconsin - Stat. Ann. (1971) § 247.26

Except for wife's adultery, may distribute husband's

property and wife's property that came through husband giving regards to rights of parties, ability of husband, special estate of wife, character and situation of parties, and all circumstances of case but not to impair allowances for children.

Wyoming - Stat. (1957) § 20.63

Court may make such disposition of property of parties as shall appear just and equitable having regard to merits of parties, conditions after divorce, through whom property acquired and burdens imposed for benefit of wife and children.

NEW RULES AND AMENDMENTS

SUPREME COURT OF NEW JERSEY

ORDERED that the attached amendments to the Rules Governing the Courts of the State of New Jersey are adopted, to be effective September 13, 1971.

By the Court,
Joseph Weintraub, Chief Justice

Dated: July 7, 1971

1:3-4. Enlargement of Time

(a) ... (no change)

(b) ... (no change)

(c) **Enlargements Prohibited.** Neither the parties nor the court may, however, enlarge the time specified by R. 1:7-4 (motion for amendment of findings); R. 3:18-2 (motion for judgment of acquittal after discharge of jury); R. 3:20-2, R. 4:49-1(b) and (c) and R. 7:4-7 (motion for new trial); R. 3:21-9 (motion in arrest of judgment); R. 3:21-10 (a) and R. 7:4-6(f) (motion for correction or reduction of sentence); R. 3:24 (appeals to the county court from interlocutory orders of courts of limited criminal jurisdiction); R. 4:40-2(b) (renewal of motion for judgment); **R. 4:49-2 (motion to alter or amend a judgment);** and R. 4:50-2 (motion for relief from judgment or order).

Note: Source—R.R. 1:27B(a) (b) (c) (d) (e), 4:6-1, 8:12-5(a) (b). Paragraph (c) amended July 7, 1971 to be effective September 13, 1971.

1:8-2. Number of Jurors [; Less Than 12]

(a) **[Stipulation as to Number of Jurors] Criminal Actions.** Juries shall consist of 12 persons but at any time before verdict the parties may stipulate that the jury shall consist of any number less than 12, except in the trials of crimes punishable by death where the prosecutor has not elected to waive the death penalty pursuant to R. 3:1-3. Such stipulations [made in criminal actions] shall be in writing and with the approval of the court.

(b) Civil Actions. A demand for a jury in a civil action is deemed to be a demand for a jury of 6 unless such demand expressly requests a jury of 12.

[(b)](c) Verdict in Civil Actions [by Less Than 12]. In civil actions **the verdict or finding shall be by five-sixths of the jurors unless** the parties [may] stipulate that a verdict or finding by a [stated] **smaller** majority of the jurors shall be taken as the verdict or finding of the jury. **If a jury of 6 is impanelled and sworn, the parties shall be deemed to have stipulated that in the event one juror is excused, the trial shall proceed and a verdict may be rendered by 5 of the jury agreeing, unless at the time the jury was drawn, any party by statement on the record refuses to so stipulate.** If a jury of 12 is impanelled and sworn, the parties shall be deemed to have stipulated that in the event one or 2 jurors are excused, the trial shall proceed and a verdict may be rendered by 10 or more of the jury agreeing, unless at the time the jury was drawn, any party by statement on the record refuses to so stipulate.

[(c)] **(d) Alternate Jurors.** The court in its discretion may direct the impanelling of a jury **of such number as is appropriate under the circumstances** not to exceed [14] **16** [members], having the same qualifications and impanelled and sworn in the same manner as a jury of 12. If a juror is excused after he has been sworn but before any opening statement is begun, another juror may be impanelled and sworn to take his place. All the jurors shall sit and hear the case, but the court for good cause shown may excuse any of them from service provided the number of jurors is not reduced to less than 12 or such other number stipulated to pursuant to R. 1:8-2(a). If more than such number are left on the jury at the conclusion of the court's charge, the clerk of the court in its presence shall put their names on slips folded to conceal the names, shall place the slips in a suitable box and from it shall draw 12 names of jurors to determine the issues.

Note: Source—R.R. 3:7-1(b), 3:7-2(d), 4:48-2, 4:49-1 (a) (b). Amended July 7, 1971 to be effective September 13, 1971. **A jury demand filed prior to September 13, 1971 is deemed to be a demand for a jury of 6 unless supplemented by a demand for a jury of 12 filed within one month after the effective date of this rule.**

1:8-3. Examination of Jurors; Challenges

(a) ... (no change)

(b) ... (no change)

(c) Peremptory Challenges in Civil Actions. [In every civil action, the parties shall each be entitled to 6 peremptory challenges, except that in an action being tried by a struck jury the parties shall each be entitled to only 3 peremptory challenges.] **In civil actions each party shall be entitled to 6 peremptory challenges. Parties represented by the same attorney shall be deemed 1 party for the purposes of this rule.**

(d) Peremptory Challenges in Criminal Actions. If the offense charged is kidnapping, treason, [misprison] **misprision** of treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, perjury or subordination of perjury, the defendant shall be entitled to 20 peremptory challenges if tried alone and to 10 such challenges when tried jointly; and the State shall have 12 peremptory challenges if the defendant is tried alone and 6 peremptory challenges for each 10 afforded defendants when tried jointly. In other criminal actions each defendant shall be entitled to 10 peremptory challenges and the State shall have 10 peremptory challenges for each 10 challenges afforded defendants. When the case is to be tried by a [struck or] foreign jury each defendant shall have 5 peremptory challenges and the State shall have 5 peremptory challenges for each 5 peremptory challenges afforded defendants.

Note: Source—R.R. 3:7-2(b) (c), 4:48-1, 4:48-3. Paragraphs (c) and (d) amended July 7, 1971 to be effective September 13, 1971.

1:8-4. Foreman

If a jury of 12 or less than 12 has been impaneled, juror number one shall be the foreman. If a jury of more than 12 has been impaneled, the first of the 12 jurors whose names are drawn to [hear] **decide** the case shall be the foreman.

Note: Source—R.R. 3:7-2(e), 4:48-2 (last phrase). Amended July 7, 1971 to be effective September 13, 1971.

1:10-4. Contempt; Prosecution; Trial

A proceeding under R. 1:10-2 may be prosecuted on behalf of the court only by [an attorney designated by it and,] **the Attorney General, the County Prosecutor of the county, or where the court for good cause designates an attorney, then by the attorney so designated.** [e]Except with the consent of the person charged, **the matter** may not be heard by the judge allegedly offended or whose order was allegedly contemned. **Unless there is a right to a trial by jury,** [T]the court in its discretion may try the [charge] **matter** without a jury [but shall not deprive the alleged offender of any statutory right to trial by jury].

Note: Source—R.R. 4:87-4. Amended July 7, 1971 to be effective September 13, 1971.

1:13-2. [Waiver of Fees] Proceedings by Indigents

(a) Waiver of Fees. Except when otherwise specifically provided by these rules, whenever any person by reason of poverty seeks relief from the payment of any fees provided for by law which are payable to any court or clerk of court **or any public officer of this State,** any court upon the verified application of such person, which application may be filed without fee, may in its discretion order the payment of such fees waived. In any case in which a person is represented by a legal aid society, an Office of Economic Opportunity legal services project, the Office of the Public Defender, or counsel assigned in accordance with these rules, all [filing] **such** fees **and any charges of public officers of this State for service of process** shall be waived [by the clerk] without the necessity of a court order.

(b) Compensation of Attorneys. Except as provided by any order of the court, no attorney assigned to represent a person by reason of poverty shall take or agree to take or seek to obtain from the client, payment of any fee, profit or reward for the conduct of such proceedings for office or other expenses; but no attorney shall be required to expend any of his own money in the prosecution of the cause.

Note: Source—R.R. 1:27E, 4:98-2(c). Paragraph (a) amended and paragraph (b) adopted July 7, 1971 to be effective September 13, 1971.

1:13-3. Approval and Filing of Surety Bond; Judgment Against Surety

(a) Approval by the Court. Neither the clerk of the court, the sheriff or any other person shall accept a surety bond in any action or proceeding pending in the court, other than a bond for costs given by a nonresident claimant, unless the same has been approved as to form and sufficiency by a judge of any court of this State except that a surrogate may accept a bond approved by himself, and in the absence of a judge the clerk may accept a bail bond approved by himself. [Bail] **B**[b]onds need not be filed in duplicate.

(b) ... (no change)

(c) ... (no change)

Note: Source—R.R. 1:4-8(b), 1:4-9, 3:9-7(c) (second, third and fourth sentences), 4:72-2, 4:118-6(a) (b). Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

1:13-7. Dismissal of Inactive Civil Cases

Except in receivership and liquidation proceedings and except as otherwise provided by rule or court order, whenever any civil action shall have been pending in any court for 6 months without any required proceeding having been taken therein, the clerk of the court, or in the Superior Court, the county clerk of the county in which the venue is laid, shall give to the parties or their attorneys written notice of a motion by the court to dismiss the same for want of prosecution. The notice shall advise that unless [written objection to the dismissal is received by] **an affidavit is filed with** the court at least 5 days prior to the return date **explaining the delay and why** the action [will then] **should not be dismissed, the action will be** dismissed without call. For purposes of this rule, adjournments, extensions of time, and applications, motions or hearings in connection therewith, shall not be considered a proceeding taken. Unless otherwise ordered by the court, a dismissal under this rule shall be without prejudice.

Note: Source—R.R. 1:30-3(a) (b) (c) (d), 1:30-4. Amended July 7, 1971 to be effective September 13, 1971.

1:13-8. Priorities of Liens and Encumbrances Determined as of Commencement of Action

The priorities of parties' liens and encumbrances are fixed and determined as of the date of the commencement of the action, unless the parties otherwise agree or it is otherwise adjudicated in the action or any other action.

Note: Source—R. 4:64-2(b). Adopted July 7, 1971 to be effective September 13, 1971.

RULE 1:14. CANONS OF ETHICS

The [Canons of Professional Ethics] **Disciplinary Rules of the Code of Professional Responsibility** and the Canons of Judicial Ethics of the American Bar Association, as amended and supplemented by the Supreme Court and included as an Appendix to Part I of these rules, shall govern the conduct of the members of the bar and the judges of all courts of this State.

Note: Source—R.R. 1:25. Canons of Professional Ethics of the American Bar Association deleted July 7, 1971 and the Code of Professional Responsibility, as amended and supplemented, adopted July 7, 1971 to be effective September 13, 1971.

1:20-4. Form of Complaint; Procedure; Presentment

(a) . . (no change)
(b) . . . (no change)
(c) . . . (no change)
(d) . . . (no change)
(e) . . . (no change)
(f) . . . (no change)

(g) **Mental and Physical Examination.** If at any time prior to its final disposition of a complaint, the ethics committee has good cause to believe that the mental or physical condition of the respondent **or his possible addiction to drugs or intoxicants** is relevant to the subject matter of the complaint and is a factor which should be considered by it [,] **and, if the respondent refuses to submit voluntarily to an appropriate examination, the committee** [it] may apply to the Supreme Court for an order requiring the respondent to submit to **such** an [appropriate] examination [, such]. **The** application [to] **shall** be by motion, on notice to the respondent, and accompanied by a statement by the committee setting forth in detail its reasons for the application and the relevance of the examination to its investigation or deliberations. The statement shall have annexed thereto any documentation in the possession of or available to the committee supporting the application. An order requiring the respondent to submit to such an examination shall designate the time within which it shall be made and the name of the expert who shall make it,

such expert to be a member of the panel maintained by the Administrative Director of the Courts pursuant to R. 4:20-2 (Impartial Medical Experts). The Supreme Court, on its own motion, may at any time during the pendency of a complaint before [the] a committee or the [court] **Supreme Court,** order the respondent to submit to such an examination. **Following the examination, whether consented to by the respondent or ordered by the Supreme Court, further proceedings shall be as provided by R. 1:20-11(b).**

(h) ... (no change)

(i) .. (no change)

Note: Source—R.R. 1:16-4(a) (b) (c) (d) (e) (f) (g) (h) (i). Paragraph (g) amended July 7, 1971 to be effective September 13, 1971.

1:20-9. Suspension and Disbarment; Reinstatement

(a) ... (no change)

(b) Reinstatement. An application for reinstatement by an attorney who has been suspended shall be made to the chairman of the committee of the county which conducted the disciplinary proceedings and to the chairman of the committee of the county in which he resides at the time of such application. Each chairman shall present the application to his committee, which shall review the file, make an investigation of the applicant's activities subsequent to his suspension, **and, if appropriate, his mental and physical condition at the time of his application for reinstatement,** afford him an opportunity to be heard and to present and cross-examine witnesses, and submit a written report of its findings and a recommendation to the Supreme Court, mailing a copy thereof to the applicant. If the committee's recommendation for reinstatement is not accepted by the Supreme Court, it may fix a date for a hearing thereon and briefs may be submitted no later than 2 weeks in advance of such date. **If an attorney has been suspended by reason of incompetency or mental or physical incapacity as provided by R. 1:20-11, his application for reinstatement shall include a consent to submit voluntarily to a mental or physical examination, if such an examination is requested by the committee, and shall also include a waiver by the applicant of the physician-patient privilege.**

Note: Source—R.R. 1:18-2(a) (b) (c). Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

1:20-11. Proceedings Upon Declaration or Allegation of Incompetency or Mental Incapacity.

(a) Suspension Upon Adjudication of Incompetency or Involuntary Commitment. The Supreme Court, on its own motion, may suspend any attorney who has been judicially declared incompetent or involuntarily committed to a mental hospital. A copy of the order of suspension shall be served upon the attorney, his guardian, if any, the director of the institution to which he has been committed, if any, and the chairman of the ethics committee of the county in which he has practiced and, if different, in which he resides.

(b) Determination of Alleged Incapacity During Pendency of Disciplinary Proceedings. If during a disciplinary proceeding, the Supreme Court has ordered a mental or physical examination pursuant to R. 1:20-4(g), a report thereof shall be submitted to the Supreme Court. If on the basis of the report and after such further inquiry as the court may make, the court is satisfied that the attorney has not the capacity to practice law, it may enter an order suspending him from the practice of law and hold in abeyance the pending disciplinary proceeding, notice of the order to be given as provided in paragraph (a) hereof, or the Supreme Court may direct the ethics committee before which the matter is pending to take such further action as the Supreme Court may deem appropriate. If, prior to the entry of an order for examination pursuant to R. 1:20-4(g), a respondent alleges that he is disabled by reasons of mental infirmity, illness or addiction to drugs or intoxicants, the Supreme Court may enter an order suspending him from the practice of law and directing an examination to be made as provided by R. 1:20-4(g) and it may, following the examination, proceed as herein provided.

(c) Determination of Incapacity Where No Disciplinary Proceedings Are Pending. The Supreme Court on application of the ethics committee of the county wherein an attorney either practices law or resides, which has good cause to believe that an attorney against whom no disciplinary proceeding is pending is suffering from a mental infirmity, illness or addiction to drugs or intoxicants rendering him unfit to continue the practice of law, or the court on its own motion, may order an examination in the manner provided by R. 1:20-4(g) and, if such an order is entered, further proceedings thereon shall be held as prescribed by paragraph (b) hereof.

(d) Supplementary Orders on Suspension. If an attorney is suspended pursuant to the provisions of this rule, the Supreme Court may make such orders with respect to notice to his clients, the taking of an inventory of his files and such other matters as it deems necessary for the protection of the interests of the suspended attorney and his clients.

Note: Adopted July 7, 1971 to be effective September 13, 1971.

1:21-1A. Professional Corporations for the Practice of Law

(a) Attorneys may form professional corporations under the "Professional Service Corporation Act" [(Chapter 232, Laws of 1969)] **(N.J.S. 14A:17-1 et seq.)** to engage in the practice of law in the same manner as an individual or a partnership, provided that;

(1) ... (no change)
(2) ... (no change)
(3) ... (no change)
(b) ... (no change)
(c) ... (no change)
(d) ... (no change)
(e) ... (no change)

Note: Adopted December 16, 1969 effective immediately; paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

1:21-3. Appearance by Law Clerks, Graduates and Students; Effect of Limited Certificate; Special Permission for Out-of-State Attorneys

(a) ... (no change)
(b) ... (no change)

(c) Appearance by Law Students and Graduates. A third year law student **at,** or graduate of, an approved law school may [, on the referral of a legal aid office,] appear [on behalf of indigent persons in the juvenile and domestic relations courts, the county districts courts and the municipal courts, provided such appearance is] **before any court or agency** in accordance with a program approved by the Supreme Court on submission by such law school or **by a** legal aid office.

(d) ... (no change)

Note: Source—R.R. 1:12-8A(a) (b) (c). Caption amended and paragraph (d) adopted July 1, 1970 effective immediately; paragraph (c) amended July 7, 1971 to be effective September 13, 1971.

1:21-6. Recordkeeping; Sharing of Fees; Examination of Records

(a) ... (no change)
(b) ... (no change)
(c) ... (no change)

(d) Members, Associates and Employees of Out of State Firms. All attorneys who practice in this State who are members of a firm, or associates or employees of a firm or attorney, practicing outside this State

(1) shall not share with such firm or attorney any fee for legal services rendered in this State if payment to such firm or attorney is prohibited by [Canon 34 of the Canons of Professional Ethics] **DR 2-107 of the Disciplinary Rules of the Code of Professional Responsibility**; and

(2) ... (no change)
(e) ... (no change)

(f) Retainer Agreements and Closing Statements. In all matters in which the attorney has a contingent fee arrangement, the attorney shall enter into a written retainer agreement with his client and shall present the client with a closing statement upon completion of the matter.

(g) [(f)] ... (no change)
(h) [(g)] ... (no change)

Note: Source—R.R. 1:12-5(a) (b) (c) (d) (e) (f) (g) (h). Paragraph (f) adopted July 7, 1971 to be effective Sepetmber 13, 1971.

2:5-3. Preparation and Filing of Transcript; Statement of Proceedings

(a) Request for Transcript. Except as otherwise provided by R. 2:5-3(c), if a verbatim record was made of the proceedings before the court, agency or officer from which the appeal is taken, the appellant shall, no later than the time of the filing and service of his notice of appeal, serve upon the reporter who recorded the proceedings, and [, if appropriate,] upon the reporter supervisor for the county if the appeal is from [the Superior Court or a county court,] **a court other than the municipal court and the proceedings were recorded stenographically,** or upon the clerk of the court [in which the sound recording was made,] **or agency if the proceedings were sound recorded,** a written request for the preparation of an original and copy of the transcript, and may, at the same time, order from the reporter **or court clerk** the number of **additional** copies he will be required by R. 2:6-12 to file and serve. If the appeal is from an administrative agency or officer which has had the verbatim record transcribed, [it] **such transcript** shall be made available to the appellant on his request for reproduction for filing and service. **The request for transcript shall state the name of the judge or officer who heard the proceedings, the date or dates of the trial or hearing and shall be accompanied by a deposit as required by R. 2:5-3(d).** A copy of [all such requests] **the request for transcript** shall be mailed to all other interested parties, to the clerk of the appellate court and to the Administrative Office of the Courts. The provisions of this paragraph shall not apply if the original and first carbon of the transcript have already been prepared and are on file with the court.

(b) Contents of Transcript; Omissions. Except if abbreviated pursuant to R. 2:5-3(c), the transcript shall include the entire proceedings in the court or agency from which the appeal is taken, including the reasons given by the trial judge in determining a motion for a new trial, unless a written statement of such reasons was filed by the judge. The transcript shall not, however, include opening and closing statements to the jury or voir dire examinations unless a question with respect thereto is raised on appeal, in which case the appellant shall specifically order the same [from the reporter] **in the request for transcript.**

(c) Abbreviation of Transcript in Civil Cases. The transcript may be abbreviated only in civil actions and in either of the following manners:

(1) by consent, provided all parties to the appeal agree in writing that only a stated portion thereof will be needed by the appellate court, and in such cases, only those portions of the transcript specified in the writing [need be requested from the reporter] **shall be ordered in the request for transcript,** or

(2) by order of the trial judge or agency which determined the matter on appellant's motion specifying the points on which he will rely on the appeal. The motion shall be filed and served no later than the time of filing and service of the notice of appeal, and service of the request **for transcript** [upon the reporter or clerk] prescribed by paragraph (a) of this rule shall be made within 3 days after entry of the order determining the motion.

(d) Deposit for Transcript; Disposition by Reporter and Clerk; Transcript for Indigents. Unless the appellant is the State or a political subdivision thereof, he shall, at the time of making the request for the transcript, deposit with the reporter or the clerk of the court **or agency** from whom a transcript [of the sound recording] was ordered, either the estimated cost of the transcript or the sum of [$150.00] **$200.00** for each day or fraction thereof of trial **or hearing.** The reporter or clerk [of the court] as the case may be, shall promptly prepare or arrange for the preparation of the transcript in accordance with the standards fixed by the Administrative Director of the Courts, deliver the [copy] **original** to the appellant and file the [original] **copy** with the clerk of the court or agency from which the appeal is taken, forthwith notify in writing the clerk of the appellate court, the Administrative Office of the Courts, and the attorneys for all of the parties of such delivery and filing, and bill the appellant or reimburse him for any sum due for the preparation of the transcript or overpayment made therefor. If the appellant is indigent and is entitled to have a transcript of the proceedings below furnished without charge for use on appeal, on application either the trial or the appellate court may order the transcript prepared at public expense.

(e) ... (no change)

Note: Source—R.R. 1:2-8(e) (first, second, third, fourth, sixth and seventh sentences), 1:2-8(g), **1:6-3,** 1:7-1(f) (fifth sentence), **3:7-5** (second sentence), **4:44-2** (second sentence), 4:61-1(c), 4:88-8 (third and fourth sentences), 4:88-10 (sixth sentence). Paragraphs (a), (b), (c) and (d) amended July 7, 1971 to be effective September 13, 1971.

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

(a) Appeals. Applications for leave from interlocutory orders of courts or of judges sitting as statutory agents and from interlocutory decisions or actions of state administrative agencies or officers shall be made by serving and filing with the court or agency from which the appeal is taken [a notice of intention to move for leave to appeal within 5 days, and by serving and filing] **and** with the appellate court a notice of motion for leave to appeal, as prescribed by R. 2:8-1, within 15 days after entry of such order or the date of service of such administrative decision or notice of such administrative action.

(b) ... (no change)

(c) Notice To the Trial Judge; Findings. If leave to appeal is sought from an interlocutory order, and the trial judge **or hearing officer** has not filed a written statement of reasons, the appellant shall, when he serves his [notice of intention to move] **motion** for leave to appeal, mail a copy thereof by ordinary mail to the trial judge **or hearing officer,** who shall within 5 days after its receipt, file and transmit to the parties a written statement of his reasons for entering the order unless those reasons have been orally stated and a verbatim record thereof made. [The judge] **He** may amplify any statement of reasons theretofore made [by him].

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.

2:6-6. Covers of Briefs and Appendices

(a) ... (no change)

(b) Color, Weight. [If printed, the] **The** covers of appellant's brief and appendix, respondent's brief and appendix, and appellant's reply brief and appendix shall be white, blue and buff, respectively. Covers of all briefs and appendices [otherwise reproduced may be white and] shall be of a firm material but not glassine.

Note: Source—R.R. 1:7-6(a) (b) (c) (d) (e) (f). Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

2:6-10. Format of Briefs and Other Papers

All briefs, appendices, petitions, [and] motions, **transcripts and other papers** may either be printed or reproduced by any other method capable of providing plainly legible copies, such as typed carbon copies, mimeograph, multigraph, multilith, ditto, photocopy or electrostatic copies. Paper [should] **shall** be of good quality, opaque and unglazed. Coated paper [should not] **may** be used. [where more than 20 pages are required.] Where the method of reproduction permits, color of paper shall be India eggshell. Copy may be printed on both sides provided duplicating or text paper of not less than 50 lb. weight is used. If copy is typed, type size shall be pica or larger and double spaced. Papers if printed shall be approximately 6⅛ inches by 9¼ inches and if otherwise reproduced shall be approximately 8½ inches by 11 inches. Margins shall be approximately one inch. The stenographic transcript or other papers on file or in evidence may be reproduced without retyping in which event the page size, but not the margin requirements, shall be observed. Papers should be bound or stapled along the left margin or in the upper lefthand corner. Covers shall conform to R. 2:6-6(b).

Note: Source—R.R. 1:7-10. Amended July 7, 1971 to be effective September 13, 1971.

2:6-11. Time for Serving and Filing Briefs; Appendices

(a) Time Where no Cross Appeal Taken. The appellant shall serve and file his brief and appendix within 45 days after the delivery to him of the transcript, if a [stenographic]**verbatim** record was made of the proceedings below; or within 45 days after the filing of the settled statement of the proceedings, if no [stenographic] **verbatim** record was made of the proceedings below; or within 45 days of the filing of the notice of appeal if a transcript or settled statement has been filed prior to a filing of the notice of appeal or if no transcript or settled statement is to be filed; or within 45 days after the entry of an order granting certification [.]; **or, on an appeal from a state administrative agency, within the time stated above or within 45 days after the service of the statement of the items comprising the record on appeal required by R. 2:5-4(b), whichever is later.** The respondent shall serve and file his brief and appendix, if any, within 30 days after the service of the appellant's brief. The appellant may serve and file a reply brief within 10 days after the service of the respondent's brief.

(b) ... (no change)

Note: Source—R.R. 1:7-12(a) (c), 1:10-14(b), 2:7-3. Paragraph (b) amended September 5, 1969 to be effective September 8, 1969; paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

2:6-12. Number of Briefs, Appendices and Transcripts to Be Served and Filed

(a) Two copies of briefs and appendices shall be served on each party to the appeal [.], **and one copy of the transcript shall be served on any one respondent for the use of all respondents.**

(b) ...(no change)

(c) ...(no change)

(d) On appeal to either the Appellate Division or the Supreme Court [no more than] **at least** 3 copies of the transcript, in addition to the [original] **copy** filed [by the reporter] pursuant to R. 2:5-3(d), shall be filed with the appellate court. Within 10 days after all briefs of all parties have been filed, the appellant shall so notify the clerk of the court or agency from which the appeal is taken who shall forthwith transmit the [original transcript] **copy filed with him** to the clerk of the court to which the appeal is taken.

Note: Source—R.R. 1:7-12(a) (b), 2:7-3, 2:7-4. Paragraphs (a) and (d) amended July 7, 1971 to be effective September 13, 1971.

2:10-1. Motion for New Trial as Prerequisite for Jury Verdict Review; Standard of Review

In both civil and criminal actions, the issue of whether a jury verdict was against the weight of the evidence shall not be cognizable on appeal unless a motion for a new trial on that ground was made in the trial court. The trial court's ruling on such a motion shall not be reversed unless it clearly [and unequivocally] appears that there was a [manifest denial] **miscarriage** of justice under the law.

Note: Source—R.R. 1:5-1(a) (fourth and fifth sentences), 1:5-3(a). Amended July 7, 1971 to be effective September 13, 1971.

2:10-3. [Error in] Review of Sentence

If a judgment of conviction is reversed for error in or for excessiveness of the sentence, the appellate court may impose such sentence as should have been imposed or may remand the matter to the trial court for proper sentence.

Note: Source—R.R. 1:5-1(c). Caption amended July 7, 1971 to be effective September 13, 1971.

2:11-1. Appellate Calendar; Oral Argument

(a) **[Argument] Calendar.** The clerk of the appellate court shall enter all appeals upon a docket in chronological order as of the date of the filing of appellant's brief and **cases shall be argued or submitted for consideration without argument** [they shall be argued] in that order unless entitled to a preference pursuant to R. 1:2-5 or 2:11-2, or advanced on motion of the court, its presiding judge or any party. [The clerk shall notify counsel of the assigned argument date.]

(b) **[Order, Time, Manner of] Oral Argument. In the Supreme Court,** [A]appeals shall be argued orally unless the court dispenses with argument. **In the Appellate Division appeals shall be submitted for consideration without argument, unless argument is requested by one of the parties within 14 days after service of the respondent's brief or is ordered by the court. The clerk shall notify counsel of the assigned argument date.** The appellant shall be entitled to open and conclude argument. An appeal and cross appeal shall be argued together, the party first appealing being entitled to open and conclude, unless the court otherwise orders. Each party will be allowed a maximum of 45 minutes for argument in the Supreme Court and 30 minutes in the Appellate Division, but the court may terminate the argument at any time it deems the issues adequately argued. No more than 2 attorneys will be heard for each party. An attorney will not be permitted to read at length from the briefs, appendices, transcripts or decisions.

Note: Source—R.R. 1:8-1(a) (b), 1:8-2(a), 1:8-3, 1:8-4, 2:8-3. Amended July 7, 1971 to be effectvie September 13, 1971.

2:11-5. Costs on Appeal

Such costs as are recoverable by law, including the cost of the transcript and the reasonable expense of printing or reproducing briefs, appendices, motions and petitions, shall be taxed by the clerk of the appellate court in the manner ordered by the appellate court or in the absence of such order, in favor of the prevailing party[.], **except that where a new trial is ordered taxation of costs on the appeal shall abide the event of the new trial unless the court otherwise orders.**

Note: Source—R.R. 1:9-2. Amended July 7, 1971 to be effective September 13, 1971.

RULE 2:14. REMOVAL OF JUDGES

2:14-1. Institution of Proceedings

A proceeding for the removal of a judge may be instituted before the Supreme Court of New Jersey pursuant to N.J.S. 2A:1B-1 to 2A:1B-11, by the filing of a complaint with the Clerk of the Supreme Court. A complaint may be filed only by the Governor, or by either House of the Legislature acting by a majority of all its members, or by the Supreme Court on its own motion.

Note: Adopted July 7, 1971 to be effective September 13, 1971.

2:14-2. Order to Show Cause

On the filing of a complaint, the Supreme Court shall order the judge to show cause, as provided in the order, why he should not be removed from office as a judge and require him to file an answer with the Clerk of the Supreme Court within 30 days after service upon him of a copy of the order and complaint. Service of the order and complaint shall be made upon the judge in such manner as directed by the Supreme Court. The proceedings shall be prosecuted by the Attorney General of New Jersey or his representative or by an attorney specially designated by the Supreme Court.

Note: Adopted July 7, 1971 to be effective September 13, 1971.

3:4-1 Procedure After Arrest

A person arrested under a warrant issued upon a complaint shall be taken, without unnecessary delay, before the court named in the warrant. A person making an arrest without a warrant shall take the arrested person, without unnecessary delay, before the nearest available committing judge and a complaint shall be filed forthwith and either a warrant issued thereon [.] **or, if the person taking the complaint has reason to believe that the defendant will appear in response to a summons, a summons issued.** The judge before whom the arrested person is taken shall advise such person of his rights in accordance with R. 3:4-2.

Note: Source—R.R. 3:2-3(a), 8:3-3(a). Amended July 7, 1971 to be effective September 13, 1971.

3:4-2. Procedure After Filing of Complaint

At the defendant's first appearance before the court following the filing of a complaint, the judge thereof shall inform the defendant of the charge made against him and if a copy of the complaint has not previously been furnished to the defendant, shall furnish him with a copy thereof. The judge shall also inform the defendant of his right not to make a statement as to the charge against him and that any statement made by him may be used against him. The judge shall also inform the defendant of his right to retain counsel or, if indigent and constitutionally or otherwise entitled by law to counsel, of his right to have counsel furnished without cost. If the defendant asserts he is indigent, unless he affirmatively and with understanding of his waiver of his right states his intention to proceed without counsel, the judge shall have him complete the appropriate form as prescribed by the Administrative Director of the Courts, **if such form has not yet been completed.** If the complaint charges the defendant with an indictable offense, the court shall refer him to the Office of the Public Defender. If the complaint charges the defendant with a non-indictable offense and the court is satisfied that he is indigent and that he is constitutionally or otherwise entitled by law to have counsel furnished, the court shall assign counsel to represent him in accordance with R. 3:27-2. The court shall allow the defendant a reasonable time and opportunity to consult counsel before proceeding further. If the complaint charges the defendant with an indictable offense, the court shall inform him of his right to have a hearing as to probable cause and of his right to indictment by the grand jury and trial by jury, and if the offense charged may be tried by the court upon waiver of indictment and trial by jury, the court shall so inform the defendant. All such waivers shall be in writing, signed by the defendant, and shall be filed and entered on the docket. If the complaint charges an indictable offense which cannot be tried by the court on waiver, it shall not ask for or accept a plea to the offense. The court shall admit the defendant to bail as provided in R. 3:26 and R. 7:5.

Note: Source—R.R. 3:2-3(b), 8:4-2 (second sentence). Amended July 7, 1971 effective September 13, 1971.

3:7-10. Execution of Service; Return

(a) ... (no change)

(b) ... (no change)

(c) ... (no change)

(d) Service Upon a Corporation by Publication. If the summons directed to a corporation is returned "not served" and it appears to the satisfaction of the court that the summons could not be served, the court shall by order direct the corporation to cause its appearance and plea to be entered by a day certain. A copy of such order shall within 5 days after the date thereof be published in a newspaper in this State [for 2 weeks, at least once a week] **once, at least 2 weeks preceding the day certain so specified.** If the defendant corporation does not appear within the time specified by the order, the court, if satisfied that publication has been duly made, shall direct the clerk to enter an appearance and a plea of "not guilty" for the defendant corporation, and thereupon further proceedings may be had on the indictment or accusation as provided by these rules.

(e) ... (no change)

Note: Source—R.R. 3:4-11, 3:4-12 (a) (b), 3:4-13. Paragraph (d) amended July 7, 1971 to be effective September 13, 1971.

3:9-1. Arraignment

(a) ... (no change)

(b) **Entry of Not Guilty Plea Without Appearance.** [A defendant represented by an attorney may enter a plea of not guilty without arraignment by filing, at or before the time fixed for arraignment, a written statement signed by the defendant certifying that he has received a copy of the indictment or accusation, has read or had it read or explained to him, understands the substance of the charge, waives arraignment and pleads not guilty to the charge. The statement shall be signed by defendant in the presence of a person authorized to administer oaths as provided by R. 4:12-1 to 4:12-3, inclusive.] **When a defendant is represented by an attorney and desires to plead not guilty, unless the court otherwise orders, such plea shall be entered by the filing, at or before the time fixed for arraignment, of a written statement, signed by the attorney, certifying that the defendant has received a copy of the indictment or accusation, has read it or the attorney has read it or explained it to him, understands the substance of the charge, and pleads not guilty to the charge.**

Note: Source—R.R. 3:5-1. Paragraph (b) deleted and new paragraph (b) adopted July 7, 1971, to be effective September 13, 1971.

3:17-1. Order for Production [After Testimony] at Trial

If there shall not have been disclosure thereof before trial, the court on defendant's motion made at trial shall order the prosecuting attorney to produce any statement or record of a statement, as described in R. 3:13-3(c)(2), in his possession made by a witness who is about to testify on direct examination on behalf of the State, provided such statement is relevant to the offense charged. If the entire statement is relevant, the court shall order it delivered to the defendant for his examination and use prior to the direct testimony of the witness.

Note: Source—R.R. 3:7-3A(a). Caption amended July 7, 1971 to be effective September 13, 1971.

3:21-2. Presentence Investigation

Before the imposition of sentence or the granting of probation the probation service of the court shall make a presentence investigation and report to the court which shall be [confidential, unless otherwise provided by rule or court order.] **first examined by the sentencing judge so that matters not to be considered by him in sentencing may be excluded. The report, thus edited, shall contain all presentence material having any bearing whatever on the sentence and shall be furnished to the defendant.** If a custodial sentence is imposed, the probation service of the court shall, within 10 days thereafter, transmit a copy of the presentence report to the person in charge of the institution to which the defendant is committed. The sentencing judge may include with such transmittal a statement of the reasons for the sentence imposed by him.

Note: Source—R.R. 3:7-10(b). Amended July 7, 1971 to be effective September 13, 1971.

3:21-4. Sentence

(a) ... (no change)
(b) ... (no change)
(c) ... (no change)
(d) ... (no change)
(e) ... (no change)

(f) Notification of Right to Appeal. After imposing sentence, **whether following the defendant's plea of guilty or a finding of guilty after trial,** the court shall advise the defendant of his right to appeal and, if he is indigent, of his right [to apply for leave] to appeal as an indigent [pursuant to R. 2:7].

Note: Source—R.R. 3:7-10(d). Paragraph (f) amended July 7, 1971 to be effective September 13, 1971.

3:23-3. Notice of Appeal; Contents

The notice of appeal shall set forth the title of the action; the name and address of the appellant and his attorney, if any; a general statement of the nature of the offense; the date of the judgment; the sentence imposed; whether the defendant is in custody; and if a fine was imposed, whether it was paid or suspended; and the name of the court from which the appeal is taken. There shall be included in the notice of appeal a statement as to whether or not a stenographic record or sound recording was made pursuant to R. 7:4-5 in the court from which the appeal is taken. **Where a verbatim record of the proceeding was taken, the notice of appeal shall also contain the attorney's certification that he has either complied with R. 2:5-3(a) (request for transcript) and R. 2:5-3(d) (deposit for transcript) or that he has filed and served a motion for abbreviation of transcript pursuant to R. 2:5-3(c).**

Note: Source—R.R. 3:10-3. Amended July 7, 1971 to be effective September 13, 1971.

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

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

(a) Individuals Generally. Upon an individual other than an infant under 14 years of age or an incompetent person, by delivering a copy of the summons and complaint to him personally; or by leaving a copy thereof at his dwelling house or usual place of abode with a competent member of his family of the age of 14 years or over then residing therein; or by delivering a copy thereof to a person authorized by appointment or by law to receive service of process on his behalf [.] ; **or by service by registered, certified or ordinary mail, except that no default shall be entered for failure to appear unless service is also made under another provision of this paragraph (a).**

(b) ... (no change)
(c) ... (no change)
(d) ... (no change)
(e) ... (no change)
(f) ... (no change)
(g) ... (no change)
(h) ... (no change)
(i) ... (no change)

Note: Source—R.R. 4:4-4. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

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

In actions affecting specific property, or any interest therein, or any res within the jurisdiction of the court, if 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, be served within the State, service may be made upon him by any of the following 4 methods:

(a) ... (no change)

(b) ... (no change)

(c) Or by publishing a notice [twice during 2 consecutive calendar weeks, once in each week,] **once** in a newspaper published in the county in which the venue is laid, or, if there is none, in a newspaper published in this State circulating in such county; and also by mailing, prior to the last publication, a copy of the notice as herein provided and the complaint to the defendant, prepaid, to his residence or the place where he usually receives his 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). But 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 before the date of the last publication;

(1) The notice required by this rule shall be in the form of a summons, without a caption, and shall state briefly (1) the object of the action and the name of the person to whom it is addressed and why such person is made a defendant; and (2) where the action concerns real estate, the municipality in which and the street on which the real estate is situate, and, if the property is improved, the street number of the same, if any, and if a mortgage is to be foreclosed, the parties thereto and the date thereof;

(2) The inquiry required by this rule shall be made by the plaintiff, his 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 him notice of the action, that he 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;

(d) ... (no change)

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.

4:11-2. Pending Appeal

If an appeal has been taken from a trial court judgment or before the taking of such an appeal if the time therefor has not expired, the trial court, on motion, may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further trial court proceedings. The motion shall show the names and addresses of the persons to be examined, the substance of the testimony which is expected to be elicited from each, and the reasons for perpetuating their testimony. If the court finds that perpetuation of the testimony may prevent a failure or delay of justice, it may make an order allowing the depositions to be taken and may make such orders as are provided for by R. 4:18-1 [,] **and** R. 4:19 [-1 and R. 4:19-2]. Deposition so taken may be used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

Note: Source—R.R. 4:17-2. Amended July 7, 1971 to be effective September 13, 1971.

4:25-1. Pretrial Conferences

(a) **Actions to Be Pretried.** [The court shall direct the attorneys for the parties to appear before it for a pretrial conference in every contested action; but only as may be practicable in an action brought in a summary manner under R. 4:67; and in automobile negligence actions only if requested by a party within 150 days after service of the original complaint upon the defendant by a filed separate written statement, or if ordered by the court; and in divorce and nullity actions, only in the court's discretion on its own or a party's motion.] **Pretrial conferences shall be held in all contested actions, except that a pretrial conference shall not be held in the following actions unless directed by the court upon its own motion or in its discretion after the request of a party: contested personal injury and property damage tort actions; contested divorce and nullity actions; and actions brought in a summary manner under R. 4:67. The request of a party for a pretrial conference shall be made in his pretrial memorandum and shall include a statement of the facts and reasons supporting the request.**

(b) ... (no change)

(c) ... (no change)

(d) ... (no change)

Note: Source—R.R. 4:29-1(a) (b) (d) (e), 4:29-6. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:25-2. [Time for] Mailing Notices; Filing of Pretrial Memorandum

(a) **Notice of Pretrial Conference.** [Except in actions in lieu of prerogative writs,] **In all contested actions other than summary actions under R. 4:67, and except as provided in paragraph (b) hereof,** the county clerk shall give at least 30 days notice by mail of the pretrial conference to all parties or their attorneys. The notice shall not be mailed [until] **earlier than** 150 days after service of the original complaint upon the defendant; except that the court may direct the earlier mailing of the notice, either on its own motion or for good cause on the application of a party, with or without consent of the adverse party, and except that notice of pretrial conference in actions in lieu of prerogative writ shall be mailed [to the attorneys for the parties] within 10 days after expiration of the time allowed for service of the last permissible responsive pleading. [When discovery is not complete, timely consent orders may be submitted postponing the conference for a stipulated period not greater than the time limitation set forth in R. 4:24-1.]

(b) Notice for Filing of Pretrial Memorandum. In personal injury and property damage tort actions and in contested divorce and nullity actions, the county clerk shall mail the notice provided in paragraph (a) hereof and in the manner therein provided, except that the notice shall provide that a pretrial conference will be held only upon the direction of the court following the filing of the parties' pretrial memoranda, the filing date for which shall be stated in the notice.

(c) Filing and Service of Memoranda. In all contested actions other than summary actions under R. 4:67, the parties shall submit to the court and serve upon all other parties a pretrial memorandum, in the form prescribed by R. 4:25-3(b), at least 3 days prior to the pretrial conference date specified in the notice of pretrial conference; except that in actions referred to in paragraph (b) hereof, the pretrial memorandum shall be filed and served on or before the date specified in the notice for filing pretrial memoranda provided by in paragraph (b).

Note: Source—R.R. 4:29-2(a) (b). Caption and paragraph (a) amended, paragraphs (b) and (c) adopted July 7, 1971 to be effective September 13, 1971.

4:25-3. Conference of Attorneys; Form of Pretrial Memoranda [; Preparation to Discuss Settlement]

(a) ... (no change)

(b) Pretrial Memoranda. Pretrial memoranda shall include the following:

(1) The date the attorneys for the parties conferred, matters then agreed upon, and the factual and legal contentions to be made on behalf of each party with respect to the issues remaining in dispute;

(2) A statement of any unusual problems of evidence which may arise at trial;

(3) A certification that all pretrial discovery has been completed or, in lieu thereof, a statement as to those matters of discovery remaining to be completed;

(4) A statement as to which parties, if any, have not been served and which parties, if any, have defaulted;

(5) In personal injury and property damage tort actions and contested divorce and nullity actions, a statement as to whether the attorney requests a pretrial conference and if so, the reasons therefor.

[(b) **Memorandum.** Each attorney shall prepare and submit to the court a memorandum of the matters agreed upon, and of the factual and legal contentions to be made on behalf of his client with respect to those issues remaining in dispute. The memorandum shall be submitted to the pretrial judge and served upon all other parties at least 3 days prior to the pretrial conference and shall have annexed thereto 2 extra copies of the party's factual and legal contentions for the court and one extra copy thereof for each party to the action. The memorandum shall refer to any unusual problems of evidence which may arise in the case, so that the pretrial judge may, at the pretrial conference, direct submission of briefs on such problems.]

[(c) **Certification.** Every memorandum shall certify at the foot thereof that (1) the case is ready for pretrial conference; (2) on a specified date, the attorneys for the parties conferred as to the factual and legal issues and as to settlement; (3) the attorney appearing at the pretrial conference is fully familiar with the case and is prepared for and is authorized to participate in the pretrial conference within the spirit of these rules; and (4) all discovery has been engaged in.]

[(d) **Settlement.** Counsel for all of the parties should come to the pretrial conference prepared to discuss settlement, and should have their clients or their authorized representative available, in person or by telephone, for this purpose.]

Note: Source—R.R. 4:29-3(a) (b) (c) (d) (e). Caption amended, paragraph (b) adopted, and former paragraphs (b), (c) and (d) deleted July 7, 1971 to be effective September 13, 1971.

4:26-6. Initials or Contractions of First Name or Names

Actions may be instituted against defendants designated by an initial letter or letters or a contraction of a given [or] first name or names. **Final judgment shall not, however, be entered against a defendant so designated unless either the defendant has been designated as provided by R. 4:26-5 or the plaintiff amends the complaint to state at least one full given name of the defendant or the court otherwise orders.**

Note: Source—R.R. 7:4-5 (second paragraph). Amended July 7, 1971 to be effective September 13, 1971.

4:28-4. Notice to Attorney General and Attorneys for Other Governmental Bodies

(a) Actions Involving Validity of Statute, Ordinance, etc.; Unknown Owners. If the validity of a statute, executive order, franchise or constitutional provision of this State is questioned in any action to which the State or an agency or officer thereof is not a party, the party raising the question shall give notice of the pendency of the action to the Attorney General. If the validity of an ordinance, regulation or franchise of a governmental subdivision of this State affecting the public interest is questioned in any action to which the subdivision or an agency or officer thereof is not a party, the party raising the question shall give notice of the pendency of the action to the attorney or chief legal officer of the governmental subdivision. **The plaintiff in any action brought against unknown owners of or claimants to real property shall give notice of the pendency of the action to the Attorney General if the State is not already a party thereto.**

(b) . . . (no change)

(c) . . . (no change)

(d) . . . (no change)

Note: Source—R.R. 4:37-2, 4:117-6. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:36-2. Trial Calendar

In Superior Court actions the county clerk of the county in which the action is to be tried shall, when the first answer is filed, place the action upon the trial calendar of the Law or Chancery Division according to the caption of the complaint, unless the court otherwise orders. The actions shall be listed on the calendar in chronological order in accordance with the date the complaint was filed. [Only the court clerks designated by order of the Chief Justice shall prepare the trial calendar of the Chancery Division in their respective vicinages.] Matrimonial causes shall not be listed for trial until notice of approval for trial under R. 4:79-1 has been received. Foreclosure actions shall be listed for trial only if the answer disputes the validity or priority of the plaintiff's mortgage or lien and creates an issue with respect thereto. No civil action which has been pending more than 6 months without reaching issue shall thereafter be placed upon any trial calendar in the Superior Court or the county courts, except upon order of the court in which such action is pending.

Note: Source—R.R. 4:41-4 (a). Amended July 7, 1971 to be effective September 13, 1971.

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4:42-9. Counsel Fees

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

(1) **In a matrimonial action,** the court in its discretion may make an allowance, both pendente lite and on final determination, to be paid by any [of the parties] **party** to the action, **including, if deemed to be just,** [charging] any party successful in the action; but no allowance shall be made as to nonmatrimonial issues merely because joined with matrimonial issues.

(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 fee not exceeding $50 except for special cause shown by affidavit. If the plaintiff is other than a municipality no counsel fee shall be allowed unless prior to the filing of the complaint the plaintiff shall have given not more than [60] **120** nor less than 30 days' written notice to the interested owners and mortgagees whose interests appear of record, 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.

(6) **In an action upon a liability or indemnity policy of insurance, in favor of a successful claimant.**

[(6)] (7) **As expressly provided by these rules with respect to any action,** whether or not there is a fund in court.

(b) **Affidavit of Service.** Except in tax and mortgage foreclosure actions, all applications for the allowance of fees shall be supported by an affidavit stating in detail the nature of the services [performed,] **rendered, the amount of the estate or fund, if any, the responsibility assumed, the results obtained,** the amount of time spent **by the attorney** [thereon], any particular novelty or difficulty [thereof], **the time spent and services rendered by paraprofessionals, other factors pertinent in the evaluation of the services rendered,** and the amount of the allowance [sought] **applied for,** and an itemization of disbursements for which reimbursement is sought.

(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.

4:43-2. Final Judgment by Default

When a default has been entered in accordance with R. 4:43-1 a final judgment may be entered in the action as follows:

(a) ... (no change)

(b) By the Court. In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless he is represented in the action by a guardian or guardian ad litem who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, he (or, if appearing by representative, his representative) shall be served with written notice of the application for judgment at least 5 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any allegation by evidence or to make an investigation of any other matter, the court may conduct such hearings with or without a jury or to take such proceedings as it deems appropriate. **If application is made for the entry of judgment by default in deficiency suits or claims based directly or indirectly upon the sale of a chattel which has been repossessed, the plaintiff shall prove before the court the description of the property, the amount realize at the sale or credited to the defendant and the costs of the sale.** In actions for possession of land, however, the court need not require proof of title by the plaintiff.

(c) ... (no change)

(d) ... (no change)

Note: Source—R.R. 4:55-4 (first sentence), 4:56-2(a) (b) (first three sentences) (c), 4:79-4. Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

4:44-3. Hearing; Order; Expenses

All proceedings to enter a judgment to consummate a settlement in matters involving infants and incompetents shall be heard by the court without a jury. If the court approves the settlement it shall enter an order reciting the action taken [,] **and** directing the appropriate judgment **in accordance with R. 4:48A.** [and, if the amount of the infant's or incompetent's share of the settlement does not exceed $10,000.00 directing, in lieu of a guardian's bond, disposition of the proceeds thereof pursuant to N.J.S. 3A:7-14.1.] The court, on the request of the claimant or his attorney or on its own motion, may approve the expenses incident to the litigation, including attorney's fees. If the fees of the attorney representing the guardian ad litem are to be paid by the defendant, the defendant shall upon the court's request make available to it his complete file in the action.

Note: Source—R.R. 4:56A(e). Amended July 7, 1971 to be effective September 13, 1971.

RULE 4:47. ENTRY OF JUDGMENT

Subject to the provisions of R. 4:42-2 (judgment on multiple claims) judgment shall be entered as follows:

(a) ... (no change)

(b) ... (no change)

The notation of a judgment in the civil **judgment and order** docket constitutes the entry of the judgment, and the judgment shall not take effect before such entry unless the court in the judgment shall, for reasons specified therein, direct that it take effect from the time it is signed, but no such direction shall affect the lien or priority of the judgment. The entry of the judgment shall not be delayed for the taxing of costs.

Note: Source—R.R. 4:59. Amended July 7, 1971 to be effective **September 13, 1971.**

RULE 4:48A JUDGMENTS FOR INFANTS AND INCOMPETENTS

(a) Infant. In the event of a judgment for an infant after trial or settlement, the court shall dispense with the giving of a bond and, except as otherwise ordered by the court, shall direct the proceeds of the judgment, if it does not exceed $3,000, to be disposed of pursuant to N.J.S. 3A:6-31, and if it exceeds the same, then to be deposited in court pursuant to N.J.S. 3A:7-14.1.

(b) Incompetent. If a judgment is in favor of an incompetent, the court shall by order either dispense with the giving of a bond by the guardian and direct that the proceeds of the judgment be deposited in court to be handled in the same manner as in the case of an infant, or make such other provision for the disposition of the proceeds of the judgment as may be in the best interest of the incompetent.

Note: Adopted July 7, 1971 to be effective September 13, 1971.

4:49-1. Motion for New Trial

(a) Grounds of Motion. A new trial may be granted to all or any of the parties and as to all or part of the issues on motion made to the trial judge. On a motion for a new trial in an action tried without a jury, the trial judge may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment. The trial judge shall [not, however, set aside the verdict of a jury as against the weight of the evidence unless,] grant the **motion if,** having given due regard to the opportunity of the jury to pass upon the credibility of the witnesses, it clearly and convincingly appears that there was a [manifest denial] **miscarriage** of justice under the law.

(b) ... (no change)

(c) ... (no change)

(d) ... (no change)

Note: Source—R.R. 4:61-1(a), 4:61-2, 4:61-3, 4:61-4, 4.61-5. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:51-1. Issuance; Service

The writ of ne exeat or capias ad respondendum, [whether] serving as original or mesne process, shall issue only on court order after application supported by affidavit and, if the court directs, by the taking of oral testimony. The writ may issue against one or more of the defendants **and shall be returnable at such time as the court directs.** If issuing as original process it shall be served with the complaint and the defendant arrested and [T] the writ shall state that the defendant's answer shall be served within 20 days after the arrest or within such further time as is permitted by these rules where a summons is served. The court shall fix the amount of bail, which shall be stated on the writ [together with the name and office and residence addresses and telephone numbers of both the judge issuing the writ and another judge to whom application may be made if he is not available] **and shall direct the executing officer to release the defendant upon his furnishing the officer with a bond or cash deposit in the amount of the bail as provided by R. 4:51-2(b) and shall further direct the executing officer that in the event the defendant is unable or refuses to furnish said bond or deposit, to bring him forthwith to the judge issuing the writ or to any other judge therein named.** R. 4:51 does not supersede the ne exeat provisions of [R.S. 49:1-21 and 22 (New Jersey Securities Law)] **N.J.S.A. 49:3-45 (Real Estate Syndication Offerings Law).**

Note: Source—R.R. 4:66-1. Amended July 7, 1971 to be effective September 13, 1971.

4:51-2. [Ne Exeat; Capias; Bond; Cash Deposit]

[(a) Ne Exeat; Bond or Cash Deposit. Writs of ne exeat are returnable at such time as the court directs. When a defendant is arrested on a writ of ne exeat, the sheriff shall take a bond in the amount stated on the writ, with sureties as required by law, conditioned upon the defendant at all times rendering himself amenable to the orders and process of the court pending the action and to such process as shall be issued to compel the performance of the judgment therein and that he shall appear before the court, or any officer thereof, when so required by court order. In lieu of sureties on the bond, the sheriff may take a deposit in cash in the amount endorsed on the writ, making note thereof at the foot of the bond and forthwith paying the same into court to abide its further order.

(b) Capias: Bail or Cash Deposit. When a defendant is arrested on a writ of capias ad respondendum, the sheriff shall take a recognizance of bail with the same conditions specified in paragraph (a). One or more sureties may be required. A corporate surety shall be approved by the Commissioner of Banking and Insurance. Every surety except an approved corporate surety shall comply with the requirements of R. 3:26-5 (justification of sureties). The defendant may, in lieu of giving or renewing bail if rendered by his bail, deposit with the sheriff cash in the amount for which the bail was ordered and shall thereupon be discharged from custody. The sheriff taking such cash shall comply with the requirements of notation thereof and deposit into court prescribed by paragraph (a). The making of such deposit shall not prevent defendant from moving to set aside the order for bail. If the order for bail is later set aside or the defendant recovers judgment in the action, the money deposited shall be repaid to him; but if the plaintiff recovers judgment, it shall be applied toward the satisfaction of the judgment.]

Execution; Bond

(a) Release on Bond or Cash Deposit. When a defendant is arrested either on a writ of capias ad respondendum or ne exeat and he fails or refuses to furnish a bond or cash deposit as is hereinafter described, he shall be brought immediately before the judge who issued the writ or the judge named therein, who shall forthwith advise him of his right to be released on bond with such sureties, if any, as the court shall by order direct, hear the defendant as to the amount of bail and fix the same by order, and advise him of his right to challenge the basis for the issuance of the writ pursuant to R. 4:51-3.

(b) Condition of Bond; Cash Deposit. The sheriff shall release the defendant upon his furnishing of a bond conditioned upon his rendering himself amenable to the orders and process of the court pending the action and to such process as shall be issued to compel the performance of the judgment therein and that he shall appear before the court, or any officer thereof, when so required by court order. The sheriff may in lieu of bond accept a deposit in cash in the amount of the bail. The making of such deposit shall not prevent defendant from moving to set aside the order for bail. If the order for bail is later set aside or the defendant recovers judgment in the action, the money deposited shall be returned to the person who made the deposit; but if the plaintiff recovers judgment and the money is the defendant's, it shall be applied toward the satisfaction of the judgment.

(c) . . . (no change)

Note: Source—R.R. 4:66-2, 4:66-4(a) (b) (c), 4:66-5 (a) (b). Paragraph (c) amended by order of September 5, 1969, effective September 8, 1969; Caption amended and paragraphs (a) and (b) deleted and new paragraphs (a) and (b) adopted July 7, 1971 to be effective September 13, 1971.

4:52-1. Temporary Restraint and Interlocutory Injunction —Application on Filing of Complaint

(a) Order to Show Cause with Temporary Restraints. On the filing of a complaint seeking injunctive relief, the plaintiff may apply for an order requiring the defendant to show cause why an interlocutory injunction should not be granted pending the disposition of the action. The order to show cause shall not, however, include any temporary restraints against the defendant unless he has either been given notice of the application or consents thereto or it appears from specific facts shown by affidavit or verified complaint that immediate and irreparable damage will probably result to the plaintiff before notice can be served or informally given and a hearing had thereon. If the order to show cause includes temporary restraints and was issued without notice to the defendant, provision shall be made therein that the defendant shall have leave to move for the dissolution or modification of the restraint on 2 days' notice or on such other notice as the court fixes in the order. The order may further provide for the continuation of the restraint until the [return date of the order to show cause, which shall not be later than] **further order of the court and shall be returnable within such time after its entry as the court fixes but not exceeding 20** days after the date of its issuance in the case of a resident defendant or 35 days in the case of a non-resident defendant, unless within such time the court on good cause shown extends the time for a like period or unless the defendant consents to an extension for a longer period.

(b) ... (no change)

(c) ... (no change)

Note: Source—R.R. 4:67-2. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:58-1. Time and Manner of Making and Accepting Offer

Except in a matrimonial action, any party may, at any time more than 20 days before the [action is] first scheduled [for] trial **date** or daily or weekly call (whichever is earliest), serve upon any adverse party, without prejudice, and file with the clerk of the court, an offer to take judgment in his favor, or as the case may be, to allow judgment to be taken against him, for a sum stated therein or for property or to the effect specified in his offer (including costs). If at any time on or prior to the 10th day before the first scheduled [date of the] trial **date** or daily or weekly call (whichever is earliest) the offer is accepted, the offeree shall serve upon the offeror and file with the clerk a notice of acceptance. **The making of a further offer shall constitute a withdrawal of all previous offers made by that party. An offer shall not, however, be deemed withdrawn upon the making of a counter-offer by an adverse party but shall remain open until accepted or withdrawn as is herein provided.** If the offer is not accepted [within such time,] **on or prior to the 10th day before the first scheduled trial date or daily or weekly call (whichever is earliest) or within 90 days of its service, whichever period first expires,** it shall be deemed withdrawn and evidence thereof shall not be admissible except in a proceeding after the trial to fix costs, interest and attorney's fee. The fact that an offer is not accepted does not preclude a further offer within the time herein prescribed in the same or another amount or as specified therein.

Note: Source—R.R. 4:73. Amended July 7, 1971 to be effective September 13, 1971.

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

If the offer of a claimant is not accepted and he obtains a verdict or determination at least as favorable to him as his offer, he shall be allowed, in addition to costs of suit, six per cent interest on the amount of any money recovery from the date of the offer or the date of completion of discovery, whichever is later, and also a reasonable attorney's fee, which shall belong to the client, not exceeding $750.00. In an action for negligence or unliquidated damages, however, no attorney's fee shall be allowed to the offeror unless the amount of the recovery is in excess of 120 per cent of the offer. **If there are multiple defendants against whom a joint and several judgment is sought, and one of the defendants offers in response less than his pro rata share, he shall, for the purposes of the allowance of interest and attorney's fee, be deemed not to have accepted the claimant's offer.**

Note: Amended July 7, 1971 to be effective September 13, 1971.

[4:58.4. Applicability

Until the futher order of the Supreme Court, the provisions of R. 4:58 shall be applicable only to actions in a trial division of the Superior Court in which the venue is laid in Essex or Middlesex County and to actions in the county courts of said counties.]

Note: Deleted July 7, 1971 to be effective September 13, 1971.

4:60-10. Time to Defend

(a) Where no Summons Is Served. A defendant who has not been served with summons in the action shall serve and file his answer, or move against the complaint, the writ of attachment or the sheriff's levy thereunder within 20 days after personal service of the notice of attachment if service is made within this State, or within 35 days after service of the notice of attachment if service is made outside this State or by registered or certified mail, or within 35 days after the [last] publication if service is made by publication alone, or within such time as has been fixed by order of the court.

(b) Where Summons Is Served. A defendant who has been served with summons in the action but has not appeared therein or has failed to defend the same shall move against the attachment or the sheriff's levy thereunder within 20 days after service of the notice of the attachment and levy, or if service is made by publication alone, then within 20 days after the [last] publication.

(c) ... (no change)

Note: Source—R.R. 4:77-15 (a) (b) (c). Paragraphs (a) and (b) amended July 7, 1971 to be effective September 13, 1971.

4:63-2. Notice of Motion for Sale Free from Dower and Curtesy

In proceedings for the sale of real estate by a fiduciary or for partition, notice of an application to sell free and clear of a right or estate of dower or curtesy shall be served [personally] within this State **in accordance with R. 1:5-2** at least 20 days prior to the application; or if it shall appear by affidavit made pursuant to R. 4:4-5 that the party entitled to notice cannot be served within this State, the notice may be served pursuant to [that rule] **R. 4:4-5,** provided that service is completed at least 35 days prior to the application.

Note: Source—R.R. 4:81-4. Amended July 7, 1971 to be effective September 13, 1971.

4:64-2. Proof [; Priorities Among Defendants]

[(a) **Generally.**] Proof required by R. 4:64-1 may be submitted on affidavit, unlesss the court or standing master otherwise requires. With the proof there shall be produced the original mortgage and evidence of the indebtedness, or such other original record or document, or a certified copy of any document, if the original is filed or recorded, as may be the basis of the claim. The affidavits and proof required by this rule may be sent to the standing master by registered or certified mail, return receipt requested, together with a sufficiently stamped, addressed envelope for the return of the documents by registered or certified mail, return receipt requested. No judgment by default shall be taken against a defendant postponing his rights or claims to those of any other defendant, unless the priority of the rights or claims of the latter and the facts upon which they depend are distinctly set forth in the complaint; any controversies between such defendants may be settled upon application for the surplus moneys.

[(b) **Effect of Action on Priorities.** The priorities of defendants' liens or encumbrances shall be fixed and determined as of the date of the commencement of the foreclosure action, unless the parties have otherwise agreed or unless adjudicated in any other action.]

Note: Source—R.R. 4:82-3. Caption amended and paragraph (b) deleted July 7, 1971 to be effective September 13, 1971.

4:66-1. Action for Sale

The general guardian of the person or property of an infant or incompetent person, **or a person executing an affidavit pursuant to N.J.S. 3A:6-31,** or, if the general guardian **or the person executing such affidavit** shall fail to act or his interest is adverse or other good cause exists, a guardian ad litem appointed for him by the court after notice to the general guardian, or the special guardian for real or personal property within the State of any nonresident minor or incompetent or any person having a vested interest in lands in which an infant, incompetent, or person not in being has an interest, may bring an action in the Superior Court or in the county court to which the guardian is accountable for the sale or other disposition of the property of the infant, incompetent or person not in being. Nothing in these rules shall be deemed to authorize the sale or other disposition of any property contrary to the provisions of any will or conveyance by which the same were bequeathed, devised or granted to or for the benefit of the infant or incompetent.

Note: Source—R.R. 4:84-1 (first sentence), 4:84-2 (fifth sentence). Amended July 7, 1971 to be effective September 13, 1971.

4:66-3. Order to Sell

Upon presentation of the complaint and affidavit to the court, it may in its discretion require proof by way of oral testimony or additional affidavits in support of the statements therein. If from the complaint, affidavits and oral proofs, if any, the court is satisfied that the best interest of the ward would thereby be substantially promoted and the rights of other persons interested in the property would not be harmed, it may order the guardian, special guardian or guardian ad litem to sell or otherwise dispose of the property, or such part thereof, as it deems proper. The order may fix the terms and conditions of the sale or other disposition, and may establish a price below which the property shall not be sold.

Note: Source—R.R. 4:84-2 (first, second, third sentences). Amended July 7, 1971 to be effective September 13, 1971.

4:67-4. Answers; Objections; Demand for Jury Trial

(a) ... (no change)

(b) Motion for Order to Proceed Summarily. A plaintiff proceeding pursuant to R. 4:67-1(b) shall be deemed to have waived any right to trial by jury to which he would otherwise have been entitled **whether or not the motion is granted.** A defendant entitled to trial by jury shall make demand therefor in accordance with R. 4:35, except that if the motion is returnable prior to the expiration of the time for demand therein provided, the demand shall be served and filed not later than 3 days before the return date of the motion and may be appended to any paper served and filed by the defendant in response to the motion. If the defendant has a right to and has demanded a trial by jury, the court, upon finding the existence of a genuine issue to a material fact, shall order the action to proceed as in a plenary action in accordance with R. 4:67-5.

Note: Source—R.R. 4:85-4 (first two sentences), 4:85-5 (fourth sentence). Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

4:69-6. Limitation on Bringing Certain Actions

(a) .. (no change)

(b) Particular Actions. No action in lieu of prerogative writs shall be commenced

(1) to contest or question any election under **[R.S. 18:6-63 or R.S. 18:7-85] N.J.S. 18A:24-12 or N.J.S. 18A:24-29,** after [20] **15** days from the date of such election; or

(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)

(c) .. (no change)

Note: Source—R.R. 4:88-15 (a) (b) (1) (2) (3) (4) (5) (6) (8) (9) (10) (11) (12) (c). Paragraph (b) (1) amended July 7, 1971 to be effective September 13, 1971.

4:72-3. Notice of Application

The court by order shall fix a date for hearing not less than [40] **30** days after the date of the order. Notice of application shall then be published in a newspaper of general circulation in the county of plaintiff's residence [2 times during 2 consecutive calendar weeks, once in each week, next] **once, at least 2 weeks** preceding the date of the hearing. The court may also require, in the case of an infant plaintiff, that notice be served by registered or certified mail, return receipt requested, upon a non-party parent at his last known address.

Note: Source—R.R. 4:91-3. Amended July 7, 1971 to be effective September 13, 1971.

4:73-7. Jury; View of Property

If a jury is demanded, the appeal shall be tried by a jury drawn from the general panel. [, unless the court orders a struck jury, in which case the order shall fix a place for the striking of the jury and a day therefor not less than 10 days before trial. In the case of an adjournment when a struck jury has been selected, the court in its discretion may either direct the same jurors to attend or order another jury to be struck.] The jury [, however selected,] shall view the land and property to be taken, unless the court otherwise orders.

Note: Source—R.R. 4:92-7. Amended July 7, 1971 to be effective September 13, 1971.

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 he appeals therefrom to the county court 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 clerk of the county court.** If the appellant appeals from a judgment imposing a penalty on him, he 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; 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 his prosecution of the appeal and compliance with such further order or judgment as may be made against him. 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) [Fixing] Hearing Date. [Within 10 days after the appeal is perfected the appellant shall apply to the county court for an order fixing the date of hearing. Written notice of the time of hearing so fixed shall be served on the opposing party at least 10 days before the date set for the hearing. If the appellant fails to apply to the court for such order or to give such notice, the court, unless good cause is shown, shall dismiss the appeal and enter judgment in the same terms as the judgment appealed from.] **Upon receipt of the municipal court record as provided for by paragraph (c) of this rule, the county clerk shall fix a date for the hearing and mail written notice thereof to the parties.**

(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.

RULE 4:75. DEFINITIONS

As used in these rules

"Matrimonial Actions" shall be construed broadly to include all actions brought under N.J.S. 2A:34-1 to 27, inclusive, and R.S. 9:2-1 to 11, inclusive; all actions brought under the inherent jurisdiction of the court for the [annulment] **nullity** of marriage, for the protection of the status of marriage by injunction or otherwise, and for the confirmation or otherwise of the validity of marriage by declaratory judgment; all actions brought under the parens patriae jurisdiction for the custody of infants; all actions for the enforcement, modification or vacation of agreements for support and maintenance; and in general, all actions directly involving the status of marriage, **awards to and** [the] support of [wives] **spouses** and former [wives] **spouses**, [and] the custody and support of children; **and claims between spouses and former spouses as to property claimed to be owned by them;** and shall include all non-matrimonial actions joined with matrimonial actions. **Matrimonial actions shall be cognizable in the Chancery Division and heard by any judge thereof assigned to hear matrimonial actions in the county where the venue may be laid under R. 4:76.**

"Nullity of Marriage" means nullity under N.J.S. 2A:34-1 and annulment of marriage under the general equity jurisdiction of the Superior Court.

Note: **Source—R.R. 4:33-2(a)** (b). Amended July 7, 1971 to be effective **September** 13, 1971.

4:77-1 Requirements for Certain Pleadings

(a) ... (no change)

(b) Correspondent. In matrimonial actions where adultery **or deviant sexual conduct** is charged, the pleading so charging shall state the name of the person with whom [the adultery] **such conduct** was committed, if known, and if not known, shall state any available information tending to describe the said person, and shall also state such designation of the time, place and circumstances under which the act or series of acts were committed as will enable the party charged therewith and the court to distinguish the particular offense or offenses intended to be charged. If it is stated that the name is unknown, it must be shown at the hearing that it was not known at the time of the filing of the pleading containing the charge.

(c) ... (no change)

(d) Domicile; Venue. The complaint in matrimonial actions shall state the particular residence, street and number, and the post office address of the plaintiff at the time the cause of action arose and shall state other facts which would establish plaintiff's domicile, or any other facts upon which the venue is based pursuant to R. 4:76.

Note: Source—R.R. 4:95-1(a) (b) (c). Paragraph (b) amended and paragraph (d) adopted July 7, 1971 to be effective September 13, 1971.

4:78-2. Where Personal Service of Process Is Dispensed With; Order for Publication and Substituted Service

(a) Order Dispensing with Personal Service. In an action for divorce or nullity of marriage the court may, upon application by the plaintiff made promptly after the filing of the complaint and upon the filing of the proofs required by paragraph (b) of this rule, dispense with personal service of process under R. 4:78-1 and order the defendant to answer the complaint at a specified date not less than 2 nor more than 3 months from the date of the order. Notice of the order shall be published [2 times during 2 consecutive calendar weeks, once in each week,] **once** in a designated newspaper published in this State, [the first publication to be made] within 20 days from the date of the order. The court may require such further or other publication as it deems necessary or appropriate.

(b) ... (no change)

(c) ... (no change)

Note: Source—R.R. 4:96-1(a) (b) (c) (d) (e), 4:96-3(a), 4:96-4(b) (c) (d). Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:78-4. Notice to Corespondent [in Adultery Actions]

A person named as a corespondent in any pleading seeking or resisting relief on the ground of adultery [,] **or deviant sexual conduct** shall, within 10 days after the filing of such pleading, be served by the party making the charge, either personally or by registered or certified mail to his last-known address, return receipt requested, or, if he refuses to claim or to accept delivery, by ordinary mail, with a copy of such pleading and a written notice of the pendency of the action, of the charge, and of the right to intervene in accordance with R. 4:33. If the name and address of the corespondent are discovered thereafter and before the trial, the party making the charge shall give him such notice forthwith. If the name and address of the corespondent appear at the trial, and such notice has not been given, an adjournment may be ordered and such notice given. An affidavit of compliance with the requirements of this rule shall be filed.

Note: Source—R.R. 4:97(a) (b) (c) (d). Amended July 7, 1971 to be effective September 13, 1971.

4:79-1 Applications to Standing Master

Applications for orders for publication and special substituted service and for orders dispensing therewith shall be made to a Standing Master and applications for interlocutory orders relating to process, **venue and guardians ad litem** may be made to him. Matrimonial actions shall be processed for trial under the supervision of a Standing Master.

Note: Source R.R. 4:98-1 (b) (c). Amended July 7, 1971 to be effective September 13, 1971.

4:79-8. Custody of Children

(a) **Investigation Before Award.** In matrimonial actions where the issue of custody of children is contested the court shall, before final judgment or order, require an investigation to be made by the county probation office of the character and fitness of the parties, the economic condition of the family and the financial ability of the [husband] **party** to pay alimony or support or both. In other matrimonial actions the court may, if the public interest so requires, order such an investigation. The court may continue any matrimonial action for the purpose of such investigation, but shall not withhold the granting of any temporary relief by way of alimony or support or both under R. 4:79-4 where the circumstances require.

(b) . . (no change)
(c) . . . (no change)
(d) . . . (no change)
(e) . . (no change)

Note: Source—R.R. 4:98-8(a) (b) (c) (d) (e). Paragraph (a) amended July 7, 1971, to be effective September 13, 1971.

4:79-9. Alimony and Support Payments; Enforcement

(a) **Payments Through Probation Office.** In awarding alimony or support, or both, the court shall separately set out in its order or judgment the amounts allowed for the [wife] **party** and children and shall provide that payments be made through the probation office of the county in which the person against whom the award is made resides, unless the court, for good cause shown, otherwise orders. Within 2 days of the entry of such order or judgment or within such longer or shorter period therein specified, the attorney shall file with the probation office 2 additional copies of the order or judgment to which he shall attach statements showing the addresses of both parties and their telephone numbers, if known, and the place of employment, if known, of the party against whom the award was made.

(b) . . . (no change)

Note: Source—R.R. 4:98-9(a) (b) (c). Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

4:81-1. Testamentary Trustees

If a trustee is named in or pursuant to a will admitted to probate by a surrogate's or county court or the Superior Court or a substituted trustee under a will has been appointed by the court, he shall, before exercising the authority vested in him by the will or the appointment, accept the trusteeship as provided by R. 4:97-2. The acceptance shall recite the names and addresses of the trustee and parties interested in the trust and shall identify their interests. Upon the filing of the acceptance and the power of attorney required by N.J.S. 3A:12-14, letters of trusteeship shall be issued by the [clerk] **surrogate or Clerk of the Superior Court.** No complaint, judgment or order for the issuance of letters shall be required.

Note: Source—R.R. 4:100-1. Amended July 7, 1971 to be effective September 13, 1971.

4:83-10. Appointment of Guardian of Person for an Individual Receiving State or County Services.

A parent of a mentally ill, mentally deficient or mentally retarded individual over 21 years of age who is receiving State or County residential functional services may at any time, pursuant to N.J.S.A. 30:4-165.7 to 30:4-165.11 bring an action in a summary manner for the appointment of himself as the legal guardian of the person of such individual.

Note: Adopted July 7, 1971 to be effective September 13, 1971.

4:87-3. Notice of Settlement

In an action on notice pursuant to R. 4:86-2:

(a) . . (no change)

(b) Notice of the time and place of the settlement shall be published [twice during 2 consecutive calendar weeks, once in each week,] **once at least 30 days preceding the settlement** in a newspaper published in the county in which the action is brought or the venue is laid, or if there is none, in a newspaper published in this State and circulating in such county.

(c) . (no change)

Note: Source—R.R. 4:106-3. Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

4:87-4. Vouchers; Lodging with the Clerk

In every action for the settlement of an account, the vouchers in support of payments or disbursements shall each bear a number corresponding to the number which shall be assigned to the item in the account. The vouchers, placed in numerical order, shall be lodged with the clerk of the court at least 20 days prior to the day on which the account is settled, and if it is settled in the Chancery Division of the Superior Court, the clerk shall, at least 10 days prior to [that] **the day on which the account is settled** lodge the vouchers with the [sergeant-at-arms] **court** in the vicinage where it is to be settled. In an action in the Superior Court for settlement of the account of a receiver or assignee for the benefit of creditors, however, the vouchers shall be lodged by the accountant directly with the [sergeant-at-arms] **court** in the vicinage. The vouchers shall be open to the inspection of all interested persons.

Note: Source—R.R. 4:106-4 (first paragraph). Amended July 7, 1971 to be effective September 13, 1971.

4:90-3. Order to Show Cause

Upon presentation of the complaint and, if the complaint is made by a creditor or his legal representative, upon notice to the executor or administrator, the court may make an order requiring all persons interested in the decedent's real estate to show cause on a specified date not less than 2 months after the date of the order why so much of the real estate should not be sold as will be sufficient to pay the decedent's debts, or the residue thereof. The order to show cause shall, **one month** prior to the date fixed in the order for the hearing, be published [twice during 2 consecutive calendar weeks, once in each week, in one or more newspapers] **once in a newspaper** of this State, as the court directs.

Note: Source—R.R. 4:109-3, 4:109-4. Amended July 7, 1971 to be effective September 13, 1971.

4:92-2. [Order to Show Cause] Declaration of Death

The action may be brought in a summary manner in accordance with R. 4:67 on an order to show cause returnable not less than 30 days nor more than 3 months from the date of the order why judgment should not be entered declaring such person to be dead. [The order shall be served by mail or otherwise and published in such manner as the court directs.] **Notice of the order shall be published once in a newspaper of general circulation in the county where he was last domiciled and shall be served by mail or otherwise as the court directs.**

Note: Source—R.R. 4:111-2. Amended July 7, 1971 to be effective September 13, 1971.

4:94-4. Preliminary Hearing

(a) . . . (no change)

(b) **Hearing; Notice.** At any time during or after the preliminary hearing, the court may require the production of additional testimony, may subpoena additional witnesses, or may direct that notice of the proceeding shall be given to any persons whose interests may be prejudiced or affected by the entry of a judgment of adoption. The court shall direct that notice of the proceeding be given to the natural parents of the child unless [either the child is in the custody and control of an approved agency and either the said parent or parents have forsaken their parental obligations or a court of competent jurisdiction has terminated the parental rights of such parent or parents. Notice may be dispensed with by the court only] **notice has been waived by them, or the court dispenses with notice** on proof by affidavit of diligent inquiry establishing that notwithstanding such inquiry the location of the natural parents cannot be ascertained [.] **, or unless a court of competent jurisdiction has, on notice to the natural parents, terminated their parental rights.** The court may continue the hearing as the situation requires and shall direct the manner in which any required notice shall be given, except that no notice shall be given by publication. For purposes of this paragraph natural parents shall not be deemed to include the father of an illegitimate child.

(c) . . . (no change)

Note: Source—R.R. 4:112-4. Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

4:96-1. Notice to Creditors to Present Claims

If an order is entered under N.J.S. 3A:24-3, a notice stating the entry, the date thereof, on whose application, in what court and what directions are thereby given, shall be advertised [at least twice during 2 consecutive calendar weeks once each week] **once** in such one or more newspapers of this State as may be directed in the order, the [first] advertisement to be made within 20 days after the date of the order. Such further notice shall be given as the court directs.

Note: Source—R.R. 4:114-1 (first and second sentence). Amended July 7, 1971 to be effective September 13, 1971.

4:101-1. Abstracts to Be Entered

The Clerk of the Superior Court and the clerks of the law divisions of the county courts shall enter without request **in the Civil Judgment and Order Docket** an abstract of each judgment or order for the payment of money entered in their respective courts; and upon written notice by any party thereto pursuant to law, an abstract prepared by such party of each judgment or order entered by the Chancery Division of the Superior Court, or of any judgment or order affecting title to or a lien upon real or personal property, and an abstract of any judgment or order for costs entered by the Appellate Division of the Superior Court. The abstract shall contain the following information:

(a) . . . (no change)
(b) . . . (no change)
(c) . . . (no change)

Note: Source—R.R. 4:120-2 (first unnumbered paragraph). Paragraph (a) amended September 5, 1969 to be effective September 8, 1969; amended July 7, 1971 to be effective September 13, 1971.

4:101-4. Docketing of Judgments; Recording of Transcript and Other Documents

The clerk shall docket final judgments recovered or docketed in a county court or county district court and certificates or liens filed by State or county officers and agencies, required by law to be docketed in his office, by entry in accordance with R. 4:101-1 on the civil judgment and order docket or by binding the transcript or statement of such certificates or judgments in books kept for that purpose and indexing the name of the judgment debtor in the index to the Civil Judgment [or] **and** Order Docket.

Note: Source—R.R. 4:120-5. Amended July 7, 1971 to be effective September 13, 1971.

5:3-3. Counsel; Appearance; Prosecutor

(a) Right to Counsel; Public Defender; Assignment of Counsel. In all matters the parties shall have the right to be represented by counsel. In criminal and quasi-criminal matters the court shall advise the defendant of his right to retain counsel and, if indigent and constitutionally or otherwise entitled by law to counsel, of his right to have counsel assigned to represent him. **Assignment of counsel under this rule shall be made in accordance with the applicable provisions of R. 3:27.** In juvenile matters the court shall advise the juvenile and his parents, guardian, or custodian of their right to retain counsel and, if counsel is not otherwise provided for the juvenile, and the matter is listed to be heard on the formal calendar as defined by R. 5:9-1 or is a referral hearing pursuant to R. 5:9-5, or if the juvenile is otherwise constitutionally or by law entitled to counsel, the court shall **refer the juvenile to the Office of the Public Defender or** assign **other** counsel to represent him, **if other counsel is required.** The court may, depending upon the financial circumstances of the parents, guardian or custodian, order him to pay the fee of assigned counsel in such amount as it fixes. [Assignment of counsel under this rule shall be made in accordance with the applicable provisions of R. 3:27.]

(b) . . . (no change)
(c) . . . (no change)

Note: Source—R.R. 6:3-4(a) (b) (c) (d) (e), 6:3-5. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

5:5-9. Bastardy Proceedings

(a) ... (no change)
(b) ... (no change)
(c) ... (no change)
(d) ... (no change)

(e) **Adjournment; Bond.** For good cause shown, the court may adjourn the trial [for any time not exceeding 6 weeks, except that if the complaint is filed before the birth of the child, the court may adjourn the trial for any time not exceeding 6 weeks after the birth. If] **provided, however, that if** no bond has been given previously, the reputed father shall give bond, conditioned for his appearance before the court, bearing sureties and in the penalty prescribed by law, and failing to do so, he shall be committed to the county jail pending disposition of the matter.

(f) ... (no change)

Note: Source—R.R. 6:5-8, 7:15-1, 7:15-2, 7:15-3, 7:15-4, 7:15-5, 7:15-6. Paragraph (e) amended July 7, 1971 to be effective September 13, 1971.

5:6-3. Support Orders and Judgments

(a) ... (no change)

(b) **Vacation of Order; Superior Court Action.** If, subsequent to the entry of a support order in the juvenile and domestic relations court, an order for support, either pendente lite or final, involving the same parties is entered in the Superior Court, the juvenile and domestic relations court, on its own motion or on application of any party, shall vacate its order for support and [certify to the Superior Court the amount of arrearages thereunder falling due prior to the entry of the Superior Court order. The Superior Court shall thereafter have jursidiction to entertain all applications regarding such arrearages.] **its clerk shall report to the Superior Court the amount of arrearages thereunder, if any. Said arrearages shall thereafter be proceeded upon in the Superior Court in the same manner as if they had accrued under an order entered by the Superior Court.**

Note: Source—R.R. 6:6-3. Paragraph (b) amended July 7, 1971 to be effective September 13, 1971.

5:8-2. Taking into Custody Without Process

(a) **Custody; Release without Detention.** A law enforcement officer may take into custody without process any juvenile who in his opinion is engaging in conduct defined by law as juvenile delinquency. Such action shall not be construed as an arrest but shall be deemed a measure to protect the health, morals, and well-being of the juvenile. The officer taking the juvenile into custody shall make immediate arrangements to [have the juvenile taken to his home, where he shall be released in] **release him to the custody of** [his parents] **a parent**, guardian, [or custodian,] **relative, neighbor or other suitable adult custodian** upon the [written] promise of such person to assume responsibility for the presence of the juvenile in court should a hearing be scheduled. [; or] **In appropriate circumstances,** the juvenile may be released in the custody of a probation officer or other person designated by the court. **A release in custody as provided for in this rule may be dispensed with if the officer considers the issuance of a summons to the juvenile sufficient to insure his appearance in court.**

(b) Standards for Detention Without Process. A law enforcement officer shall release a juvenile in accordance with the provisions of paragraph (a) except where

(1) the nature of the conduct charged is such that the physical safety of the community would be seriously threatened if the juvenile were not detained; or

(2) the physical or mental condition of the juvenile makes his immediate release impractical; or

(3) there is no appropriate adult custodian who agrees to assume responsibility for the juvenile and a release on summons to the juvenile is not appropriate.

(c) Procedure upon Detention Without Process. If the juvenile is not released in accordance with paragraph (a) of this rule, the law enforcement officer shall forthwith attempt to notify a parent, guardian or other appropriate adult custodian of the detention and of his right to apply to the court for the juvenile's immediate release. Immediately following said notification or attempt to notify, the officer shall take the juvenile to a court-approved detention facility, where, as a condition to the juvenile's admission thereto, the officer shall complete a detention report, in the form prescribed by the Administrative Director of the Courts, which shall include the reason for the detention, the nature of the conduct charged and the efforts made by him to notify an appropriate adult custodian. If the only reason for the detention is the unavailability of an appropriate adult custodian, and if, prior to any detention hearing, an appropriate adult custodian requests the release of the juvenile upon his undertaking to assume responsibility for any court appearance which may thereafter be required of the juvenile, the detention facility shall forthwith release the juvenile in the custody of such adult.

(d) Notice to the Court. If the only reason for the detention is the unavailability of an appropriate adult custodian, the detention facility shall attempt to locate such custodian. If it cannot locate such custodian and release the juvenile to his custody, or if the unavailability of such custodian is not the only reason for the juvenile's detention, the detention facility shall forthwith notify the presiding judge of the juvenile and domestic relations court or other designated judge. Immediately upon receiving such notification, the judge shall either

(1) direct the juvenile's release on such terms as he may fix; or

(2) direct the continued detention and schedule a detention hearing as prescribed by R. 5:8-6(d), which hearing shall be held no later than the following morning.

[(b) **Detention of Juveniles; Notice to Court.** If it is impracticable for the officer to proceed in accordance with paragraph (a) of this rule after taking the juvenile into custody, or if the nature of the offense requires his immediate detention, the officer shall make immediate arrangements to place the juvenile in a detention facility approved by the court. In such event, a judge of the juvenile and domestic relations court shall be notified forthwith and upon such notification the judge shall either order immediate release of the juvenile, or fix the terms upor which he may be released, or hold a hearing without delay to determine whether the juvenile should remain in custody pending disposition of the charges against him. If a judge of the juvenile and domestic relations court is not available, such notification shall be given to a judge of the county court or the Superior Court who shall then act for the judge of the juvenile and domestic relations court.]

[(c)] **(e) Complaint. When** [Whenever] a juvenile has been taken into custody in accordance with this rule, the officer taking [the child] **him** into custody or his superior officer shall forthwith file a complaint with the court in accordance with R. 5:8-1.

Note: Source—R.R. 6:8-3(a) (b) (c) (d). Paragraphs (a) and (e) amended and paragraphs (b), (c) and (d) adopted July 7, 1971 to be effective September 13, 1971.

5:8-6. Detention

(a) ... (no change)

(b) ... (no change)

(c) **Detention After Filing of Complaint.** At any time after the filing of a complaint, the judge may, after a detention hearing, direct that a juvenile be placed in detention.

(d) Detention Hearing. The detention hearing shall be attended by the juvenile and an appropriate adult custodian responsible for him, but may take place in the absence of such custodian if process fails to produce his attendance. If the juvenile is not represented by counsel at the hearing and if the court continues his detention after the hearing, the court shall forthwith schedule a second detention hearing to be held within 2 court days thereafter at which the juvenile shall be represented by counsel as provided by R. 5:3-3(a). An order continuing the detention shall provide for its periodic review at intervals not to exceed 14 days, shall direct the placement of the matter on the formal calendar, and shall schedule a hearing on the complaint within 30 days. No order for detention shall be entered either at the first or second detention hearing except in accordance with the provisions of paragraph (e) of this rule.

(e) Standards for Preliminary Detention. It shall be the policy of the court that all juveniles charged with delinquency be released pending final hearing to a parent, guardian, or other appropriate adult custodian on written assurance by such person of his willingness to accept responsibility for the juvenile subject to such conditions of release as shall be imposed by the court and to produce the juvenile at all scheduled hearings. In accordance with said policy, a juvenile shall be detained pending final disposition only if the court finds, from the evidence adduced at the detention hearing, that:

(1) In view of the nature of the offense charged and his past behavior, the juvenile's release might result in physical harm to himself or to the community; or

(2) There is no suitable place for the juvenile to reside, or the juvenile refuses to return to his home, or there is no suitable adult who will accept the juvenile, or there is no suitable adult with the ability to control the juvenile and protect his health and well-being; or

(3) There is reason to believe that if released, the juvenile will not appear at future hearings. If the juvenile or the adult in whose custody he is released reside out-of-state, the court may require a bond to be posted in such amount as it deems reasonably necessary to insure such appearances as may be required.

Note: Source—R.R. 6:8-7(a) (b) (c). Paragraph (c) amended and paragraphs (d) and (e) adopted July 7, 1971 to be effective September 13, 1971.

5:10-7. Classification and Availability of Court Records

(a) ... (no change)

(b) ... (no change)

(c) **Availability.** All procedural and social records **in juvenile matters and all social records in adult matters** shall be strictly safeguarded from indiscriminate public inspection. The court may, in its discretion, in the best interest of a [child] **juvenile** or adult or for other good cause, permit inspection of any procedural or social record, except that procedural and social records shall be available on a confidential basis, without court order, **to attorneys for the parties and in juvenile matters also to his parents, guardian or custodian,** to the chief probation officer and his assistants; to state and county correctional training schools and institutions; to the State Bureau of Children's Services for investigational, treatment or placement purposes; to justices and judges of the Supreme and Superior Court and the county and juvenile and domestic relations courts; and to the Governor of the State. Social records shall not be used as evidence during the trial or hearing of any person, except as otherwise permitted by these rules or the rules of evidence.

Note: Source—R.R. 6:2-11(a) (b) (c). Paragraph (c) amended July 7, 1971 to be effective September 13, 1971.

6:2-3. Service of Process

(a) **By Whom Served.** Service of all process shall be made by sergeants-at-arms of the court and such other persons authorized by law to serve such process as the presiding judge designates. Persons so designated shall receive in payment for their services the statutory fees allowed therefor. If the process is to be served in a county of this State other than that in which the action is instituted, [plaintiff] **the clerk of the county district court in which the action has been instituted** shall forward it to the clerk of the county district court of the county in which service is to be made and it shall be delivered by that clerk to a person authorized to serve such process in his county.

(b) ... (no change)

(c) ... (no change)

Note: Source—R.R. 7:4-6(a) (b) (first three sentences), 7:4-7. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

6:4-3. Interrogatories; Admissions

(a) ... (no change)

(b) ... (no change)

(c) **Request for Admissions. The provisions of R. 4:22 (admission of facts and genuineness of documents) shall apply to actions in the county district court.**

Note: Source—R.R. 7:6-4, 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.

6:7-3. Wage Executions; Notice, Order, Hearing

The provisions of R. 4:59-1(c) (wage execution) are applicable to the county district courts [.] **, except that the defendant shall notify the clerk of the county district court which issued the execution and the plaintiff in writing within 10 days after service of the notice of his reasons why the order should not be entered.**

Note: Source—R.R. 7:11-5. Amended July 7, 1971 to be effective September 13, 1971.

6:12-1. Recording and Transcript of Proceedings

(a) ... (no change)

(b) ... (no change)

(c) Request of Party. When the proceedings are sound recorded, in addition thereto, at the request and expense of any party, the court shall permit a record of the proceedings to be made by a certified shorthand reporter.

(d) When No Record Is Made. In the absence of a stenographic or sound record of any proceeding, in the event of an appeal, a statement of proceedings shall be prepared as provided for by R. 2:5-3(e).

Note: Source—R.R. 7:16-1 (a) (b) (c). Paragraph (c) adopted July 7, 1971 to be effective September 13, 1971.

7:4-2. Proceedings Before Trial.

(a) Arraignment.

(1) Except as otherwise provided by paragraph (2) of this rule, [A]arraignment shall **be conducted in open court and** shall consist of reading [to defendant in open court] the complaint [against him] to **the defendant** or stating to him the substance of the charge, and calling on him, after he is given a copy of the complaint, to plead thereto. The defendant may waive the reading of the complaint.

(2) When a defendant is represented by an attorney and desires to plead not guilty, unless the court otherwise orders, such plea shall be entered by the filing, at or before the time fixed for arraignment, of a written statement, signed by the attorney, certifying that the defendant has received a copy of the complaint, has read it or the attorney has read it or explained it to him, understands the substance of the charge, and pleads not guilty to the charge.

(b) ... (no change)

(c) ... (no change)

(d) ... (no change)

(e) ... (no change)

(f) ... (no change)

(g) ... (no change)

(h) ... (no change)

Note: Source—R.R. 8:3-2(c) (3) (iii) (second, third and sixth sentences), 8:4-2, 8:4-3, 8:4-4, 8:4-5, 8:4-6, 8:4-7, 8:4-8, 8:4-10, 8:10-4, 8:10-6(h). Paragraph (a) amended July 7, 1971 to be effective September 13, 1971.

7:4-5. [Stenographer; Recording Devices: Transcripts; Expense]

[(a) On Request or Court's Motion. At the request of any person the court shall permit any certified shorthand reporter or other competent stenographer to make an official record of the proceedings, and on its own motion it may arrange for such a reporter or stenographer to make an official record of the proceedings. A stenographer, other than a certified shorthand reporter, shall be duly sworn by the court to make an accurate stenographic record of the proceedings. A sound recording device may be provided by the court or by a party and operated under the supervision and direction of the court for the purpose of making an official recording. If such a sound recording is to be made the court shall so advise the parties at the start of the proceedings. The stenographic notes or the sound recording made pursuant to this rule shall be kept by **the person** making the same for a **period** of 3 months.

(b) Transcript. Any reporter or stenographer who has made a stenographic record or any person who has made a sound recording of any proceeding as provided in paragraph (a) of this rule shall upon request furnish any person or the court with a transcript of the testimony upon payment of the expense therefor which shall not exceed the transcript rates as provided by law. Except where the transcript has been prepared by a certified shorthand reporter, the transcript shall be accompanied by a certificate under oath made by the person preparing it attesting to its accuracy and shall be submitted to the court, which shall certify the transcript if correct.]

Record of Proceedings; Transcripts

(a) Record. When required by order of the Supreme Court, a court shall cause all proceedings to be recorded by sound recording equipment approved by the Administrative Office of the Courts. When not so required a court may at its expense cause proceedings to be recorded either by sound recording equipment or by a reporter. When sound recording equipment is used, in addition thereto, or when the proceedings are not otherwise to be recorded, at the request and expense of any party the court shall permit a record of the proceedings to be made by a certified shorthand reporter. Every sound recording and stenographic record of proceedings made pursuant to this rule shall be kept by the clerk of the court or by the reporter, as the case may be, for one year.

(b) Transcript. If the proceedings have been sound recorded, any person may order a transcript from the clerk of the court, and if proceedings have been recorded stenographically any person may order a transcript from the reporter. In either instance the charge therefor shall not exceed the transcript rates as provided by law. The person preparing a transcript shall certify to its accuracy.

(c) Supervision. The recording of proceedings and the preparation of transcripts thereof, whether by sound recording or stenographic reporters, shall be subject to the supervision and control of the Administrative Director of the Courts.

Note: Source—R.R. 8:7-5 (a) (b) (c), 8:10-7. Deleted and new rule adopted July 7, 1971 to be effective September 13, 1971.

7:7-3. Designated Offenses; Schedule of Penalties

The court shall by order, which may from time to time be amended, supplemented or repealed, designate the non-indictable offenses within the authority of the violations clerk, provided that such offenses shall not include:

(1) no-parking traffic offenses requiring an increased penalty for a subsequent violation;

(2) offenses involving traffic accidents resulting in property damage or personal injury;

(3) operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug or while ability is impaired by alcohol or permitting another person who is under such influence or impairment to operate a motor vehicle owned by the defendant or in his custody or control;

(4) reckless or careless driving;

(5) leaving the scene of an accident;

(6) driving while on the revoked list;

(7) driving without being licensed;

(8) if the defendant is a resident of this State, exceeding the speed limit by more than 20 miles per hour;

[(9) if the defendant is a resident of this State, exceeding the speed limit by 10 miles per hour or more where the speed limit is 45 miles per hour or over.]

The court by published order, which shall be submitted to and approved by the Assignment Judge of the county in which the court is located, shall specify the amount of fines and costs to be imposed for each offense within the authority of the violations clerk, including, in the discretion of the court, higher fines and costs for second and subsequent offenses, provided such fines and costs are within the limits declared by statute or ordinance. A schedule of such penalties shall be posted for public view at the violations bureau.

Note: Source—R.R. 8:10-10(b), 8:10A. Amended July 7, 1971 to be effective September 13, 1971.

APPENDIX II. INTERROGATORY FORMS

FORM B. UNIFORM INTERROGATORIES: PROPERTY DAMAGE TO MOTOR VEHICLE: SUPERIOR AND COUNTY COURT *

(Caption)

1. to 20. ... (no change)

CERTIFICATION

I hereby certify that the copies of the reports annexed hereto rendered by [either treating physicians or] proposed expert witnesses are exact copies of the entire report or reports rendered by them; that the existence of other reports of said [doctors or] experts, either written or oral, are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.

***Note: If Form A is not used, questions 1 and 2 of Form A should be added to Form B.**

Note: Amended July 7, 1971 to be effective September 13, 1971.

APPENDIX II. INTERROGATORY FORMS

FORM D. UNIFORM INTERROGATORIES BY DEFENDANT IN MOTOR VEHICLE COLLISION CASE INVOLVING PROPERTY DAMAGE: COUNTY DISTRICT COURT

(Caption)

1. to 32. ... (no change)

CERTIFICATION

I hereby certify that the copies of the reports annexed hereto rendered by [either treating physicians or] proposed expert witnesses are exact copies of the entire report or reports rendered by them; that the existence of other reports of said [doctors or] experts, either written or oral, are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.

Note: Amended July 7, 1971 to be effective September 13, 1971.

APPENDIX II. INTERROGATORY FORMS

FORM E. UNIFORM INTERROGATORIES BY PLAINTIFF IN MOTOR VEHICLE COLLISION CASE: COUNTY DISTRICT COURT

(Caption)

1. to 17. ... (no change)

CERTIFICATION

I hereby certify that the copies of the reports annexed hereto rendered by [either treating physicians or] proposed expert witnesses are exact copies of the entire report or reports rendered by them; that the existence of other reports of said [doctors or] experts, either written or oral, are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.

Note: Amended July 7, 1971 to be effective September 13, 1971.