**Criminal -- Pretrial Memorandum (R. 3:9-1); Written Acknowledgment (R. 3:16)**

Directive #5-02 August 21, 2002
Issued by: Richard J. Williams
Administrative Director

At its June 14, 2002 Conference, the Supreme Court approved the recommendations contained in the Criminal Practice Committee=s 2000-2002 Report proposing amendments to R. 3:9-1 and R. 3:16. The amendment to R. 3:9-1 requires use of a standard pretrial memorandum in a form prescribed by the Administrative Director of the Courts. The amendment to R. 3:16 requires that the defendant sign a written acknowledgment of his or her trial date. This Directive promulgates the pretrial memorandum form and the written acknowledgment form required by those two rules.

1. **Pretrial Memorandum.** **Attachment 1**

A new form entitled *Pretrial Memorandum* has been created for statewide use. This form should be completed during the pretrial conference. It is designed to advise the defendant of the possible consequences should he or she fail to appear for court proceedings. See R. 3:9-1(e).

2. **Written Acknowledgment of Trial Date (Notice of Trial) Form.** **Attachment 2**

A new form entitled *Written Acknowledgment of Trial Date* has been created for statewide use. The defendant is to sign the form to indicate that he or she has been advised that the trial will proceed in his or her absence if he or she is not present for the original, or rescheduled, trial date. See R. 3:16.

English and Spanish versions of the forms promulgated by this Directive are attached. You should begin using these forms as soon as possible. Any questions or comments regarding this Directive, or appended forms, should be directed to Assistant Director Joseph J. Barraco at (609) 292-4638.

# ATTACHMENT 1

# PRETRIAL MEMORANDUM

# PRETRIAL MEMORANDUM
# SUPERIOR COURT OF NEW JERSEY _____ COUNTY

Defendant's Name: _____ Judge: _____

Indictment No(s): _____

1. List all indictments, counts, degrees and maximum jail sentence.

| Indictment No. | Count | Charges & Degree | Max Jail |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

2. Does the defendant qualify for extended term? [YES] [NO]

   If yes, discretionary _____
   mandatory _____

3. Does the presumption of imprisonment apply? [YES] [NO]

   If yes, what counts? _____

4. Does a mandatory period of parole ineligibility apply? [YES] [NO]

   If yes, what counts? _____

   85% Law _____ Term _____
   Graves Act _____ Term _____
   School Zone _____ Term _____
   Other _____ Term _____

5. **Maximum sentence** if convicted. _____
   (Including extended term, if applicable)

6. **Maximum parole ineligibility** period. _____

7. Do you understand that if you are found guilty, the Court in its discretion could impose a minimum period of confinement to be served before you become eligible for parole, which could be up to one-half of the total sentence imposed? [YES] [NO]

8. Do you understand that if you are found guilty, the Court could order that any sentence imposed be served consecutively to any sentence on a violation of probation, and/or parole, and/or sentence presently being served? [YES] [NO]

   A. Are you presently on probation? [YES] [NO]
   B. Are you presently on parole? [YES] [NO]
   C. Are you presently serving a custodial sentence on another charge? [YES] [NO]

_____
Defendant's Initials

9. PLEA OFFER

Set forth in detail the plea agreement offered including sentencing recommendations.

_____

_____

_____

_____

10. Do you understand that if you reject this plea offer, the Court could impose a more severe sentence than recommended by the plea offer, up to the maximum sentence permitted if you are convicted after trial? [YES] [NO]

11. **Do you understand that if you reject this plea offer today, no negotiated plea can be accepted by this Court unless specifically authorized by the Criminal Presiding Judge pursuant to R. 3:9-3(g)?** [YES] [NO]

12. Additional/Supplemental information.

_____

_____

_____

_____

13. Discovery

A. All Pretrial discovery is complete.
B. The following Pretrial discovery is required.

_____

_____

_____

C. Pretrial discovery to be completed by

_____

_____
Defendant's Initials

14. Motions/Hearings

A. There are no further Pretrial Motions/Hearings.

B. Trial: The following non-dispositive motions can be made and heard immediately prior to trial.

_____

_____

15. Co-Defendant Status: _____

_____

16. Unique Evidential Issues: _____

_____

_____ NO BRIEF REQUIRED

_____ BRIEF REQUIRED BY _____

17. Stipulations: _____

_____

18. Estimated trial time: State's case: _____

Defense case: _____

19. Interpreter needed? [YES] [NO]

If yes, please provide the following information:

If the defendant, what language? _____
If a witness, what language? _____

_____
Defendant's Initials

20. Defendant and all counsel are hereby directed to return to court on the following date at 9:00 AM ready for trial. There will be no further notices required.

Any problems with witness availability must be brought to the Court's attention within ten (10) days of the signing of this Memorandum, or if discovered thereafter, as promptly as known.

Trial Date: _____

_____ (Assistant Prosecutor)

_____ (Defense Counsel)

_____ (Judge)

Date of Memo: _____

**1. I have been advised of my right to be present at the trial of this case. If I fail to appear for trial on the date scheduled for trial, the Court has the right to conduct the trial in my absence. If my case is not reached for trial on that date the judge will schedule a new date for trial. If I am not present on the original trial date, or any rescheduled trial date, the trial will proceed without me and I will be bound by the jury's verdict.**

**2. I further understand that if I do not appear for trial on the date fixed above or any adjourned trial date thereafter, I will lose any bail that has been posted and a bench warrant will be issued for my arrest.**

**3. I understand that except in extraordinary circumstances, the filing of this Memorandum ends all plea negotiations, and no further bargaining will take place. Any subsequent plea of guilty will be without a plea recommendation.**

_____ (Defendant)

_____ (Defense Counsel)

PRETRIAL MEMORANDUM / MEMORÁNDUM PRECEDENTE AL JUICIO
SUPERIOR COURT OF NEW JERSEY _____ COUNTY/
TRIBUNAL SUPERIOR DE NUEVA JERSEY CONDADO DE _____

Defendant's Name/
Nombre y apellido del acusado: _____

Judge/
Juez: _____

Indictment No(s)/
Nro. de la acusación formal
o de las acusaciones formales: _____

1. List all indictments, counts, degrees and maximum jail sentence. / Enumere todas las acusaciones formales, cargos, grados y sentencia máxima de encarcelación.

| Indictment No./ Nro de la Acusación Formal | Count/Cargo | Charges & Degree/ Cargos y Grado | Max Jail/ Encarcelación máxima |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

2. Does the defendant qualify for extended term?
¿Reúne el acusado los requisitos para un término extendido? [YES/SÍ] [NO]

If yes, discretionary/Si es así, discrecional _____
mandatory/obligatorio _____

3. Does the presumption of imprisonment apply?
¿Corresponde la presunción de encarcelamiento? [YES/SÍ] [NO]

If yes, what counts?
Si es así, ¿en cuáles cargos? _____

4. Does a mandatory period of parole ineligibility apply?
¿Corresponde un período obligatorio de inelegibilidad antes de salir en libertad condicional? [YES/SÍ] [NO]

If yes, what counts?
Si es así, ¿en cuáles cargos? _____

85% Law Term/Ley del 85% _____ Term/Término _____
Graves Act Term/Ley Graves _____ Term/Término _____
School Zone Term/Zona Escolar _____ Term/Término _____
OtherTerm/Otro _____ Term/Término _____

_____
Defendant's Initials/Iiniciales del acusado



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5. **Maximum sentence** if convicted. / **Sentencia máxima** si se le condena (Including extended term, if applicable/que incluye el término extendido, si corresponde) _____

6. **Maximum parole ineligibility** period. / Período **máximo de inelegibilidad antes de salir en libertad condicional.** _____

7. Do you understand that if you are found guilty, the Court in its discretion could impose a minimum period of confinement to be served before you become eligible for parole, which could be up to one-half of the total sentence imposed?

[YES/SÍ] [NO]

¿Entiende usted que si lo encuentran culpable, el juez, a su discreción podría imponerle un período mínimo de reclusión que tendrá que cumplir antes de estar elegible de salir en libertad condicional, y que dicho período podría ser de hasta la mitad de la sentencia total que se le imponga?

8. Do you understand that if you are found guilty, the Court could order that any sentence imposed be served consecutively to any sentence on a violation of probation, and/or parole, and/or sentence presently being served?

[YES/SÍ] [NO]

¿Entiende usted que si lo encuentran culpable, el juez podría ordenar que la sentencia que imponga se cumpla consecutivamente a cualquier sentencia por una infracción de la libertad a prueba, la libertad condicional, o ambas, la sentencia que está cumpliendo actualmente o todas?

A. Are you presently on probation?
¿Está usted actualmente bajo libertad a prueba? [YES/SÍ] [NO]

B. Are you presently on parole?
¿Está usted actualmente bajo libertad condicional? [YES/SÍ] [NO]

C. Are you presently serving a custodial sentence on another charge?
¿Está usted actualmente cumpliendo una sentencia con reclusión por otro cargo? [YES/SÍ] [NO]

9. <u>PLEA OFFER / OFERTA DE UNA SENTENCIA REDUCIDA</u>

Set forth in detail the plea agreement offered including sentencing recommendations.

Exponga detalladamente el acuerdo de una reducción de sentencia que se le haya propuesto e incluya las recomendaciones en cuanto a la sentencia.

_____

_____

_____

_____

_____
Defendant's Initials/Iniciales del acusado

10. Do you understand that if you reject this plea offer, the Court could impose a more severe sentence than recommended by the plea offer, up to the maximum sentence permitted if you are convicted after trial?

[YES/SÍ] [NO]

¿Entiende usted que si rechaza esta oferta de una sentencia reducida y si se le condena después de un juicio, el juez podría imponerle una sentencia más dura que la que se recomienda en la oferta de una sentencia reducida hasta la sentencia máxima permitida?

11. **Do you understand that if you reject this plea offer today, no negotiated plea can be accepted by this Court unless specifically authorized by the Criminal Presiding Judge pursuant to R. 3:9-3(g)?**

[YES/SÍ] [NO]

**¿Entiende usted que si hoy rechaza esta oferta de una sentencia reducida, el juez no puede aceptar ninguna admisión de culpabilidad a cambio de una reducción de sentencia a menos que sea autorizado específicamente por el juez a cargo de los tribunales penales conforme a R. 3:9-3(g)?**

12. Additional/Supplemental information. / Información adicional/suplemental.

_____

_____

_____

_____

13. Discovery/Pruebas documentales

A. All Pretrial discovery is complete.
Están completas todas las pruebas documentales precedentes al juicio.

B. The following Pretrial discovery is required.
Se requieren las siguientes pruebas documentales precedentes al juicio.

_____

_____

_____

C. Pretrial discovery to be completed by / Las pruebas documentales precedentes al juicio se tienen que completar antes del

_____

_____
Defendant's Initials/Iiniciales del acusado



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14. Motions/Hearings
Pedimentos/Audiencias

A. There are no further Pretrial Motions/Hearings.
No hay más pedimentos/audiencias precedentes al juicio.

B. Trial/Juicio: The following non-dispositive motions can be made and heard immediately prior to trial. / Los siguientes pedimentos que no son de disposición se pueden hacer y ver inmediatamente antes del juicio.

_____

_____

15. Co-Defendant Status/Status del coacusado: _____

_____

16. Unique Evidential Issues/Cuestiones probatorias únicas: _____

_____

_____ NO BRIEF REQUIRED/NO SE REQUIERE NINGÚN ESCRITO JUDICIAL
_____ BRIEF REQUIRED BY/SE REQUIERE UN ESCRITO JUDICIAL PARA EL DÍA
_____

17. Stipulations/Estípulaciones: _____

_____

18. Estimated trial time/
Duración estimada del juicio:

State's case/Causa de la fiscalía: _____

Defense case/Causa de la defensa: _____

19. Interpreter needed? / ¿Se requerirá un intérprete? [YES/SÍ] [NO]

If yes, please provide the following information / Si es así, por favor suministre la siguiente información:

If the defendant, what language? / Si es para el acusado, ¿de qué idioma? _____
If a witness, what language? / Si es para un testigo, ¿de qué idioma? _____

_____
Defendant's Initials/Iiniciales del acusado

20. Defendant and all counsel are hereby directed to return to court on the following date at 9:00 AM ready for trial. There will be no further notices required.

Any problems with witness availability must be brought to the Court's attention within ten (10) days of the signing of this Memorandum, or if discovered thereafter, as promptly as known.

21. Por la presente se ordena que el acusado y todos los abogados vuelvan al tribunal en la siguiente fecha a las 9:00 de la mañana listos para el juicio. No se requerirá ningún avisio adicional.

Cualquier problema con la disponibilidad de testigos tiene que ser divulgado al juez dentro de los diez (10) días subsiguientes a la firma de este Memorándum, o si se descubre después de dicho período, en cuanto se sepa.

Trial Date/Fecha del juicio: _____

_____
(Assistant Prosecutor/Fiscal Auxiliar)

_____
(Defense Counsel/Abogado Defensor)

_____
(Judge/Juez)

Date of Memo/Fecha del Memo: _____

**1. I have been advised of my right to be present at the trial of this case. If I fail to appear for trial on the date scheduled for trial, the Court has the right to conduct the trial in my absence. If my case is not reached for trial on that date the judge will schedule a new date for trial. If I am not present on the original trial date, or any rescheduled trial date, the trial will proceed without me and I will be bound by the jury's verdict.**

**2. I further understand that if I do not appear for trial on the date fixed above or any adjourned trial date thereafter, I will lose any bail that has been posted and a bench warrant will be issued for my arrest.**

**1. Me han informado sobre mi derecho de estar presente en el juicio de esta causa. Si no comparezco para el juicio en la fecha fijada para el mismo, el juez tendrá el derecho de proceder con el juicio sin que yo esté presente. Si mi causa no se enjuicia en esa fecha, el juez fijará otra fecha para el juicio. Si no estoy presente en la fecha original del juicio, o en cualquier fecha en que se vuelva a fijar, el juicio proseguirá sin mí y me veré obligado a atenerme al veredicto del jurado.**

**2. Entiendo además que si no comparezco para el juicio en la fecha indicada más arriba o en cualquier otra fecha hasta la cual se aplace el juicio, perderé cualquier fianza que se hubiera dado, y el juez emitirá una orden para que se me arreste.**

_____
Defendant's Initials/Iniciales del acusado

**3. I understand that except in extraordinary circumstances, the filing of this Memorandum ends all plea negotiations, and no further bargaining will take place. Any subsequent plea of guilty will be without a plea recommendation.**

**3. Entiendo que, a excepción de que surjan circunstancies extraordinarias, el asiento de este Memorándum pone fin a toda negociación de una sentencia reducida, y no se realizará ninguna negociación adicional. Cualquier declaración de culpabilidad subsiguiente será sin la recomendación de una sentencia reducida.**

_____
(Defendant/Acusado)

_____
(Defense Counsel/Abogado Defensor)



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# ATTACHMENT 2

# WRITTEN ACKNOWLEDGMENT (NOTICE OF TRIAL) FORM

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, _____ COUNTY
INDICTMENT NO. _____

STATE OF NEW JERSEY

V.

_____

I hereby acknowledge that I have been advised that I am to appear for trial on the _____ day of _____, 200____ at 9:00 a.m. (unless the time is otherwise specified herein to be _____) and if I fail to appear on that date, or any rescheduled trial date, the trial will proceed without me and I will be bound by the jury's verdict.

Dated: _____

_____
Defendant's signature

Administrative Offices of the Court
Issued August 20, 2002

SUPERIOR COURT OF NEW JERSEY/
TRIBUNAL SUPERIOR DE NUEVA JERSEY

LAW DIVISION/DIVISIÓN DE DERECHO,
COUNTY/CONDADO DE_____

INDICTMENT NO./ACUSACIÓN FORMAL Nro.
_____

STATE OF NEW JERSEY/
ESTADO DE NUEVA JERSEY

V.

_____

I hereby acknowledge that I have been advised that I am to appear for trial on the _____ day of _____, 200___ at 9:00 a.m. (unless the time is otherwise specified herein to be _____) and if I fail to appear on that date, or any rescheduled trial date, the trial will proceed without me and I will be bound by the jury's verdict.

Por la presente confirmo que se me ha notificado que debo comparecer a un juicio el día _____ de _____del 200__ a las 9:00 de la mañana (a menos que aquí se especifique otra hora _____) y que si no comparezco en esa fecha, o en cualquier otra fecha cambiada para el juicio, el juicio procederá sin que esté presente y me veré obligado a cumplir con el veredicto del jurado.

Dated/Fecha: _____ _____/_____
Defendant's signature/Firma del acusado

Administrative Office of the Courts/Oficina Administrative de los Tribunales
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