

RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 4:3. DIVISIONS; VENUE; TRANSFER OF ACTIONS

4:3-1. Divisions of Court; Commencement and Transfer of Actions

(a) Where Instituted.

(1) Chancery Division-General Equity. Actions in which the plaintiff's primary right or the principal relief sought is equitable in nature, except as otherwise provided by subparagraphs (2) and (3), shall be filed and heard in the Chancery Division, General Equity, even though legal relief is demanded in addition or alternative to equitable relief.

(2) Chancery Division-Probate Part. All actions pursuant to R. 4:83 et seq. shall be filed and heard in the Chancery Division, Probate Part.

(3) Chancery Division-Family Part. All actions in which the principal claim is unique to and arises out of a family or family-type relationship, including palimony actions, shall be filed and heard in the Chancery Division, Family Part. Actions cognizable in the Family Part shall include all actions and proceedings referenced in Part V of these rules, unless otherwise provided in subparagraph (a)(4) of this rule; all actions and proceedings formerly cognizable in the juvenile and domestic relations court; and all other actions and proceedings unique to and arising out of a family or family-type relationship.

(4) Specific Case Types. The following types of cases shall be filed and heard in the Division and Part as specified:

(A) Name Change. Actions seeking to change the name of an adult and/or minor shall be filed and heard in accordance with applicable provisions of R. 4:72.

(B) Partition. Notwithstanding a family or family-type relationship, if partition is the only relief sought, the matter shall be filed and heard in the Chancery Division, General Equity. If any other form of relief is sought that affects the family or family-type relationship, including but not limited to divorce, termination of domestic partnership, dissolution of civil union, spousal support, child support, custody, parenting time, property distribution or palimony, the matter shall be filed and heard in the Chancery Division, Family Part.

(C) Enforcement of Judgments. Except as otherwise provided in the court rules, all motions or applications to modify or enforce a judgment, regardless of the relief sought, shall be filed and heard in the Division and Part where the judgment was entered.

(D) Parenting Time/Visitation. All parenting time/visitation issues relating to minors shall be filed and heard in the Chancery Division, Family Part.

Parenting time/visitation issues related to adults shall be filed and heard in the Chancery Division, General Equity, except that actions seeking visitation of adjudicated incapacitated adults shall be filed and heard in the Chancery Division, Probate Part.

(E) Personal Possessions. If ownership interest or monetary damages pertaining to personal property, including pets, is the only relief sought, the matter shall be filed and heard in the Law Division, Civil Part or Law Division, Special Civil Part. If any other form of relief is sought that affects the family or family-type relationship, including but not limited to divorce, termination of domestic partnership, dissolution of civil union, spousal support, child support, custody, parenting time, property distribution or palimony, the matter shall be filed and heard in the Chancery Division, Family Part.

(F) Ejectment. If ownership interest or monetary damages pertaining to an ejectment is the only relief sought, the matter shall be filed and heard in the Law Division, Civil Part, the Law Division, Special Civil Part, or the Chancery Division, General Equity. If any other form of relief is sought that affects the family or family-type relationship, including but not limited to divorce, termination of domestic partnership, dissolution of civil union, spousal support, child support, custody, parenting time, property distribution or palimony, the matter shall be filed and heard in the Chancery Division, Family Part.

(G) Requests for Transcripts of Closed Family Court Proceedings Made in a Civil Action. Where, in a Civil action, a request is made for a transcript of a Chancery Division, Family Part proceeding deemed closed by court rules, court order or statute, an application shall be filed and heard in the Law Division, Civil Part to determine the disclosure of the Family Part transcript and to establish whether any conditions should be attached to the provision of the transcript. The parties to the Family Part matter shall be provided notice of the application.

(H) Birth Certificates and Marriage Certificates. Applications seeking to alter the name of a parent on a birth certificate shall be filed and heard in the Chancery Division, Family Part if the application is filed on behalf of a minor. Applications for issuance of a vital record in cases in which the Bureau of Vital Statistics declines to act, such as a request for a delayed certificate of birth, shall be filed in the Law Division, Civil Part as an action in lieu of prerogative writ. If the county of venue is unknown, then application may be made to the Civil Division in Mercer County on the basis of convenience to the State Registrar. Otherwise, the action in lieu of prerogative writ shall be filed in the county where the birth or marriage took place.

(I) Post-Judgment Relief Relating to Incapacitated Adult Child of Parents Subject to Family Part Order. An action seeking to modify or enforce the terms of a Chancery Division, Family Part order addressing custody and/or parenting time/visitation of an unemancipated minor child who was later adjudicated incapacitated as defined in N.J.S.A. 3B:1-2 after reaching age 18, shall be filed and heard in the Chancery Division, Probate Part. If the action affects support and the incapacitated

child has not yet turned age 23, the matter shall be filed and heard in the Chancery Division, Family Part. If the action affects support and the incapacitated child has turned age 23, the matter shall be filed and heard in the Chancery Division, Probate Part pursuant to R. 4:86-7A. Notwithstanding the foregoing, when an application is filed relating to support of an incapacitated child over the age of 23 and either parent remains subject to a Family Part support or financial maintenance order related to other dependents, the support issue for the incapacitated child shall be determined in the Chancery Division, Family Part.

(5) Law Division. All actions in the Superior Court except those encompassed by subparagraphs (1), (2), (3), and (4) herein shall be filed and heard in the Law Division, Civil Part or the Law Division, Special Civil Part.

(b) Transfer Between Law and Chancery Division. A motion to transfer an action from one trial division of the Superior Court or part thereof to another, except those actions governed by Part VI of these rules, shall be made within 10 days after expiration of the time prescribed by R. 4:6-1 for the service of the last permissible responsive pleading or, if the action is brought pursuant to R. 4:67 (summary actions), on or before the return date if the action is pending in the Law Division. Unless so made, objections to the trial of the action in the division specified in the complaint are waived, but the court on its own motion may thereafter order such a transfer. Actions transferred shall not be retransferred. The order of transfer shall be filed in triplicate.

Note: Source – R.R. 4:41-2, 4:41-3, 5:1-2. Paragraphs (a) and (b) amended and caption amended July 22, 1983 to be effective September 12, 1983; new paragraph (a) adopted and paragraph (b) amended December 20, 1983 to be effective December 31, 1983; paragraphs (a) and (b) amended November 7, 1988 to be effective January 2, 1989; subparagraph (a)(1) amended, subparagraph (a)(2) recaptioned and adopted, former subparagraphs (a)(2) and (a)(3) redesignated (a)(3) and (a)(4) respectively, and subparagraph (a)(4) amended June 29, 1990 to be effective September 4, 1990; subparagraphs (a)(1), (a)(2) and (a)(3) amended, new subparagraph (a)(4) adopted, and former subparagraph (a)(4) amended and redesignated as subparagraph (a)(5) July 27, 2018 to be effective September 1, 2018.

Rule 4:3-2. Venue in the Superior Court

(a) Where Laid. Venue shall be laid by the plaintiff in Superior Court actions as follows: (1) actions affecting title to real property or a possessory or other interest therein, or for damages thereto, or appeals from assessments for improvements, in the county in which any affected property is situate; (2) actions not affecting real property which are brought by or against municipal corporations, counties, public agencies or officials, in the county in which the cause of action arose; (3) except as otherwise provided by R. 4:44A-1 (structured settlements), R. 4:53-2 (receivership actions), R. 4:60-2 (attachments), R. 5:2-1 (family actions), R. 4:83-4 (probate actions), and R. 6:1-3 (Special Civil Part actions), the venue in all other actions in the Superior Court shall be laid in the county in which the cause of action arose, or in which any party to the action resides at the time of its commencement, or in which the summons was served on a nonresident defendant; and (4) actions on and objections to certificates of debt for motor vehicle surcharges that have been docketed as judgments by the Superior Court

Clerk pursuant to N.J.S.A. 17:29A-35 shall be brought in the county of residence of the judgment debtor.

(b) Business Entity. For purposes of this rule, a business entity shall be deemed to reside in the county in which its registered office is located or in any county in which it is actually doing business.

(c) Exceptions in Multicounty Vicinages. With the approval of the Chief Justice, the assignment judge of any multicounty vicinage may order that in lieu of laying venue in the county of the vicinage as provided by these rules, venue in any designated category of cases shall be laid in any single county within the vicinage.

Note: Source — R.R. 4:3-2. Paragraph (a) amended December 20, 1983 to be effective December 31, 1983. Paragraph (c) adopted January 9, 1984 to be effective immediately; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended June 29, 1990 to be effective September 4, 1990; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended August 1, 2016 to be effective September 1, 2016.

Rule 4:3-3. Change of Venue in the Superior Court

(a) By Whom Ordered; Grounds. In actions in the Superior Court a change of venue may be ordered by the Assignment Judge or the designee of the Assignment Judge of the county in which venue is laid or by a judge of such county sitting in the Chancery Division, General Equity, or the presiding judge of the Family Part, or the designee of the Assignment Judge for the Special Civil Part, (1) if the venue is not laid in accordance with R. 4:3-2; or (2) if there is a substantial doubt that a fair and impartial trial can be had in the county where venue is laid; or (3) for the convenience of parties and witnesses in the interest of justice; or, (4) in Family Part post-judgment motions, if both parties reside outside the county of original venue and application is made to the court by either party to change venue to a county where one of the parties now resides.

(b) Time; Form of Order; Filing. A motion for a change of venue shall be made not later than 10 days after the expiration of the time prescribed by R. 4:6-1 for the service of the last permissible responsive pleading, or, if the action is brought pursuant to R. 4:67 (summary actions), on or before the return date. If not so made, objections to venue shall be deemed waived except that if the moving party relies on R. 4:3-3(a)(2) the motion may be made at any time before trial. The order changing venue shall not be incorporated in any other order and shall be filed in triplicate. If a mediator has already been appointed, the party moving to change venue shall serve a copy of the motion on that person prior to the mediation date. The moving party also shall promptly serve on the mediator a copy of the order entered on the motion.

(c) Ex Parte Orders. At any time prior to the filing and service of the first answer by any defendant to the complaint, plaintiff may apply ex parte for an order changing venue to any other county in which venue may be properly laid. The application shall be

granted unless it appears that there is good cause for its denial. An order of denial shall state the reasons with specificity.

Note: Source-R.R. 4:3-3. Paragraph (a) amended December 20, 1983 to be effective December 31, 1983; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraph (a) amended and paragraph (c) adopted November 5, 1986 to be effective January 1, 1987; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended June 29, 1990 to be effective September 4, 1990; paragraph (b) amended July 9, 2008 to be effective September 1, 2008.

Rule 4:3-4. Transfer and Removal of Actions

An order of transfer pursuant to paragraphs (a) and (b) of this rule shall be filed with the clerk of the court transferring the action, who shall forthwith forward a certified copy thereof, together with the record and all other papers on file in the action, to the court to which it is transferred and shall pay over the fees, if any, provided by law.

(a) Transfer From Superior Court to Tax Court. The court in which an action is pending may order it transferred to the Tax Court provided that the principal issue or issues raised therein are cognizable in that court.

(b) Transfer From the Municipal Court to the Superior Court, Chancery Division, Family Part. An action may be transferred from the municipal court to the Superior Court, Chancery Division, Family Part pursuant to R. 5:1-2(c)(3) and R. 5:1-3(b)(2).

(c) Transfers between the Law Division and Law Division, Special Civil Part shall be governed by R. 6:4-1.

Note: Source-R.R. 4:3-4(a) (b), 5:2-3. Caption and the text of paragraph (a) amended, former paragraph (b) deleted, paragraph (c) amended and redesignated (b), new introductory material and paragraph (c) adopted June 29, 1979 to be effective July 1, 1979; former paragraphs (a) and (b) deleted, former paragraph (c) redesignated and new paragraph (b) adopted December 20, 1983 to be effective December 31, 1983; new paragraph (c) adopted November 7, 1988 to be effective January 2, 1989.