

## **RULE 4:36. Assignment For Trial In The Superior Court**

### **4:36-1. County Where Tried**

Superior Court actions pending in the Law Division shall be tried in the county in which the venue is laid; those pending in the Chancery Division shall be tried in counties designated by the Chief Justice except that where tried by a jury, they shall be heard in the county in which the venue is laid unless the court otherwise orders.

**Note:** Source-R.R. 4:41-1.

### **4:36-2. Notice of Expiration of Discovery Period**

The court shall send a notice to each party to the action 60 days prior to the end of the prescribed discovery period. The notice shall advise that if an extension of the discovery period is required, application therefor must be made prior to its expiration and that if no such application is made, the action shall be deemed ready for trial. The notice shall also advise that if trial counsel has not yet been designated, that designation shall be made on written notice to all parties and the court no later than ten days after the expiration of the discovery period or the right to designate trial counsel shall be deemed waived.

**Note:** Adopted July 5, 2000 to be effective September 5, 2000 (and former Rule 4:36-2 deleted); former caption and text deleted, and new caption and text adopted July 12, 2002 to be effective September 3, 2002.

### **4:36-3. Trial Calendar**

- **(a) Notice of Trial.** The court shall advise all parties of the initial trial date no less than ten weeks prior thereto. Cases scheduled for trial shall be ready to proceed on the initial trial date. If a case is not reached during the week in which the trial date falls, it shall be forthwith scheduled for a date certain after consultation with counsel provided, however, that no case shall be relisted for trial sooner than four weeks from the initial trial date without agreement by all counsel. The court shall issue written notice confirming the new trial date.
- **(b) Adjournments, Generally.** An initial request for an adjournment for a reasonable period of time to accommodate a scheduling conflict or the unavailability of an attorney, a party, or a witness shall be granted if made timely in accordance with this rule. The request shall be made in writing stating the reason for the request and that all parties have consented thereto. The written adjournment request, which shall be submitted to the civil division manager, shall also include a proposed trial date, agreed upon by all parties, to occur as soon as possible after the problem requiring the adjournment is resolved. If consent cannot be obtained or if a second request is made, the court shall determine the matter by conference call with all parties. Requests for adjournment should be made as soon as the need is known but in no event, absent exceptional circumstances, shall such request be made later than the close of business on the Wednesday preceding the Monday of the trial week. No adjournments shall be granted to accommodate dispositive motions returnable on or after the scheduled trial date.
- **(c) Adjournments, Expert Unavailability.** If the reason stated for the initial request for an adjournment was the unavailability of an expert witness, no further adjournment request based on that expert's unavailability shall be granted, except upon a showing of exceptional circumstances, but rather that expert shall be required to appear in person or by videotaped testimony taken pursuant to R. 4:14-9 or, provided all parties consent, the expert's *de bene esse* deposition shall be read to the jury in lieu of the expert's appearance. If appropriate, given the circumstances of the particular case, the court may order that no further adjournments will be granted for the failure of any expert to appear.

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