

RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
RULE 6:3. PLEADINGS, MOTIONS AND PARTIES

6:3-1. Applicability of Part IV Rules

Except as otherwise provided by R. 6:3-4 (joinder in landlord and tenant actions), the following rules shall apply to the Special Civil Part: R. 4:2 (form and commencement of action); R. 4:3-3 (change of venue in the Superior Court), provided, however, that in Special Civil Part actions a change of venue may be ordered by the Assignment Judge of the county in which venue is laid or the Assignment Judge's designee; R. 4:5 to R. 4:9, inclusive (pleadings and motions); R. 4:26 to R. 4:34, inclusive (parties); and R. 4:52 (injunctions as applicable in landlord/tenant actions); provided, however, that, in Special Civil Part actions (1) a defendant who is served with process whether within or outside this State shall serve an answer including therein any counterclaim within 35 days after completion of service; (2) extension of time for response by consent provided by R. 4:6-1(c) shall not apply; (3) the 90-day periods prescribed by R. 4:6-3 (defenses raised by motion), R. 4:7-5(c) (cross claims), and R. 4:8-1(a) (third party complaints) shall each be reduced to 30 days; (4) the 45-day period prescribed by R. 4:8-1(b) (amended complaint asserting claims against third party defendant) shall be reduced to 30 days; (5) an appearance by a defendant appearing pro se shall be deemed an answer; (6) no answer shall be permitted in summary actions between landlord and tenant, summary ejectment and unlawful entry and detainer actions or in actions in the Small Claims Section; (7) if it becomes apparent that the name of any party listed in the pleadings is incorrect, the court, at any time prior to judgment on its own motion or the motion of any party and consistent with due process of law, may correct the error, but following judgment such errors may be corrected only on motion with notice to all parties; (8) a defendant who is served with an amended complaint pursuant to R. 4:9-1 shall plead in response within 35 days after the completion of service; and (9) the double-spacing and type-size requirements of R. 1:4-9 do not apply.

Note: Source -- R.R. 7:2, 7:3, 7:5-1, 7:5-3, 7:5-4(a)(b), 7:5-5, 7:5-6, 7:5-7, 7:5-8, 7:12-5(a)(b), 7:12-6. Amended June 29, 1973 to be effective September 10, 1973; amended July 24, 1978 to be effective September 11, 1978; amended November 5, 1986 to be effective January 1, 1987; amended November 2, 1987 to be effective January 1, 1988; amended November 7, 1988 to be effective January 2, 1989; amended June 29, 1990 to be effective September 4, 1990; amended July 13, 1994 to be effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002; amended July 27, 2006 to be effective September 1, 2006; amended August 1, 2016 to be effective September 1, 2016.

6:3-2. Endorsement of Papers: Complaint; Summons

(a) Classification of Pleading. For classification by the clerk, the caption of the summons and complaint shall state the nature of the action (e.g., "contract", "tort", "replevin", "disorderly tenant", "non-payment of rent", "holdover tenant", etc.). The clerk shall endorse upon each summons the sum demanded in the complaint, with costs.

(b) Caption in Actions on Assigned Claims. The caption in any action to collect an assigned claim shall name both the original creditor and the current assignee. The caption shall also include the name of the vendor, if any, that appears on any credit card that may be involved in the action.

(c) Pleading Requirements in Actions on Assigned Claims. The complaint in actions to collect assigned claims shall set forth with specificity the name of the original creditor, the last four digits of the original account number of the debt, the last three digits of the defendant-debtor's Social Security Number (if known), the current owner of the debt, and the full chain of the assignment of the claim, if the action is not filed by the original creditor.

Note: Source — R.R. 7:5-2(a) (third sentence) (b). Caption and text amended July 10, 1998, to be effective September 1, 1998; text designated as paragraph (a), caption added to paragraph (a), and new paragraphs (b) and (c) adopted July 19, 2012 to be effective September 4, 2012; paragraph (c) amended July 22, 2014 to be effective September 1, 2014.

6:3-3. Motion Practice

(a) Serving and Filing Motion Papers. On motions to which R. 6:3-3(c) is applicable, moving papers including proof of service shall be filed forthwith after service. On all other motions, except ex parte applications, moving papers including proof of service shall be served and filed within the time prescribed by R. 1:6-3. Ex parte applications shall be filed with the clerk.

(b) When Heard. Motions shall be heard on days designated by the Assignment Judge or designee.

(1) Subject to R. 1:6-2(d), upon receipt of an objection and a request for oral argument, or at the direction of the court, the clerk shall set the motion down for hearing and shall notify the parties or their attorneys by mail of the time and place thereof. Requests for oral argument of contested motions made in a timely and procedurally proper manner by any party shall be granted as a matter of right.

(2) A party who has not requested oral argument may waive in writing the right to appear at the hearing and instead rely on the papers. When oral argument has been waived by all parties, it should not be required unless the court believes that it is necessary for disposition of the motion.

(3) The court may use telephone conferences to dispose of motions.

(c) Service and Form. Motions shall be made in the form and manner prescribed by R. 1:6, and in conformity with R. 6:6-1, provided, however, that:

(1) The notice of motion shall not state a time and place for its presentation to the court, nor shall the discovery end date as specified in R. 1:6-2(a) be required. No oral argument of a motion shall be permitted unless specifically demanded by a party or directed by the court.

(2) The notice of motion shall also state the court's address and that the order sought will be entered in the discretion of the court unless the attorney or pro se party upon whom it has been served notifies the clerk of the court and the attorney for the moving party or the pro se party in writing within ten days after the date of service of the motion that the responding party objects to the entry of the order.

(3) Every notice of motion shall include the following language: "NOTICE. IF YOU WANT TO RESPOND TO THIS MOTION YOU MUST DO SO IN WRITING. Your written response must be in the form of a certification or affidavit. That means that the person signing it swears to the truth of the statements in the certification or affidavit and is aware that the court can punish him or her if the statements are knowingly false. You may ask for oral argument, which means you can ask to appear before the court to explain your position. If the court grants oral argument, you will be notified of the time, date, and place. Your response, if any, must be in writing even if you request oral argument. Any papers you send to the court must also be sent to the opposing party's attorney, or the opposing party if they are not represented by an attorney."

(4) In addition to the notice contained in subparagraph (3) above, all notices of motion for summary judgment must also state: "We are asking the court to make a final decision against you without a trial or an opportunity for you to present your case to a judge. We are requesting that a decision be entered against you because we say that the important facts are not in dispute and the law entitles us to a judgment. If you object to the motion, you must file a written response stating what facts are disputed and why a decision should not be entered against you."

(5) In addition to the notice contained in subparagraph (3) above, all notices of motion to dismiss or suppress for failure to answer interrogatories must also state: "We are requesting that your complaint be dismissed or your answer not be considered for failure to answer the interrogatories (questions) we sent you. In order to avoid this you must, within 10 days, either (a) send us answers to the questions and inform the court in writing that you have fully answered the questions; or, (b) respond to the motion. If you choose to respond, you must state your opposition in writing and send copies to us and to the court."

(6) The party seeking an order under this rule shall submit a proposed form of order with the moving papers.

(d) Transfer of Landlord/Tenant Actions; Enforcement of Discovery Orders and Information Subpoenas. Motions to transfer landlord/tenant actions to the Civil Part of the Law Division shall be governed by R. 6:4-1(g). Motions to enforce discovery orders and information subpoenas shall be governed by R. 6:7-2.

(e) Motions to Vacate Defaults or Default Judgments. Motions to vacate defaults or default judgments that were entered because a written answer was not filed on time shall include the proffered answer and its filing fee.

Note: Source -- R.R. 7:5-9, 7:5-10, 7:5-11(a)(b); paragraph (c) amended July 15, 1982 to be effective September 13, 1982; paragraph (c) amended November 2, 1987 to be effective January 1, 1988; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (c) amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended and paragraph (d) adopted July 14, 1992 to be effective September 1, 1992; new text of subparagraph (c)(5) added and former subparagraph (c)(5) redesignated as (c)(6) July 13, 1994 to be effective September 1, 1994; subparagraph (c)(2) amended, subparagraphs (c)(4), (c)(5), and (c)(6) redesignated as subparagraphs (c)(6), (c)(7), and (c)(8), and new subparagraphs (c)(4) and (c)(5) adopted July 5, 2000, to be effective September 5, 2000; paragraph (a) amended, paragraph (b) caption and text amended, paragraphs (c)(6) and (c)(7) amended and redesignated as paragraphs (b)(1) and (b)(2), new paragraph (b)(3) added, paragraph (c)(8) redesignated as paragraph (c)(6), paragraph (d) amended, and new paragraph (e) added July 12, 2002 to be effective September 3, 2002; subparagraph (c)(1) amended July 28, 2004 to be effective September 1, 2004.

6:3-4. Summary Actions Between Landlord and Tenant

(a) No Joinder of Actions. Summary actions between landlord and tenant for the recovery of premises shall not be joined with any other cause of action, nor shall a defendant in such proceedings file a counterclaim or third-party complaint. A party may file a single complaint seeking the possession of a rental unit from a tenant of that party and from another in possession of that unit in a summary action for possession provided that (1) the defendants are separately identified by name or as otherwise permitted by R. 4:26-5(c) or (d) and R. 4:26-5(e), and (2) each party's interests are separately stated in the complaint.

(b) Acquisition of Title From Tenant; Option to Purchase. When the landlord acquired title from the tenant or has given the tenant an option to purchase the property, the complaint shall recite those facts.

(c) Form of Complaint in Non-Payment Cases. Complaints in summary actions for possession of residential premises based on non-payment of rent must be verified in accordance with R. 1:4-7, must expressly state the owner's identity, the relationship of the plaintiff to the owner, the amount of rent owed as of the date of the complaint and that if this amount and any other rent that comes due is paid to the landlord or the clerk at any time before the trial date, or before 4:30 p.m. on the day of trial, the case will be dismissed. The amount of rent owed for purposes of the dispossess action can include only the amount that the tenant is required to pay by federal, state or local law and the lease executed by the parties. The complaint shall be substantially in the form set forth in the model verified complaint contained in Appendix XI-X to these Rules.

(d) Notices. Complaints in all tenancy actions shall have attached thereto copies of all notices upon which the plaintiff intends to rely.

Note: Source — R.R. 7:5-12. Caption and text amended July 14, 1992 to be effective September 1, 1992; amended July 27, 2006 to be effective September 1, 2006; caption amended, former text allocated into paragraphs (a) and (b), captions to paragraphs (a) and (b) adopted, and new paragraphs (c) and (d) added July 9, 2008 to be effective September 1, 2008; paragraph (a) amended July 19, 2012 to be effective September 4, 2012.