

RULE 6:4. PROCEEDINGS BEFORE TRIAL

6:4-1. Transfer of Actions

(a) Consolidation With Actions In Other Courts. An action pending in the Special Civil Part may be transferred to another court for consolidation with an action pending in such other court in accordance with R. 4:38-1.

(b) Transfer When Recovery Will Exceed Monetary Limit. A plaintiff, after commencement of an action in the Special Civil Part, but before the trial date, may apply for removal of the action to the Civil Part of the Law Division, on the ground that it appears likely that the recovery will exceed the Special Civil Part monetary limit by (1) filing and serving in the Special Civil Part an affidavit or that of an authorized agent stating that the affiant believes that the amount of the claim, when established by proof, will exceed the sum or value constituting the monetary limit of the Special Civil Part and that it is filed in good faith and not for the purpose of delay; and (2) filing in the Civil Part of the Law Division and serving a motion for transfer. The Civil Part of the Law Division shall order the transfer if it finds that there is reasonable cause to believe that the amended claim is founded on fact and that it has reasonable chance for success upon the trial thereof.

(c) Transfer When Counterclaim Exceeds Monetary Limit. A defendant filing a counterclaim in excess of the Special Civil Part monetary limit may apply for removal of the action to the Civil Part of the Law Division by (1) filing and serving in the Special Civil Part the counterclaim together with an affidavit or that of an authorized agent stating that the affiant believes that the amount of such claim, when established by proof, will exceed the sum or value constituting the monetary limit of the Special Civil Part and that it is filed in good faith and not for the purpose of delay; and (2) filing in the Civil Part of the Law Division and serving a motion for transfer. The Civil Part of the Law Division shall order the transfer if it finds that there is reasonable cause to believe that the counterclaim is founded on fact and that it has reasonable chance for success upon the trial thereof.

(d) Transmission of Record; Costs. Upon presentation of an order transferring an action to the Civil Part of the Law Division, the Office of the Special Civil Part shall transmit the papers on file in the court to the Civil Part of the Law Division of the Superior Court in the county of venue.

(e) Remand to Special Civil Part. Upon the settlement or dismissal of a Law Division, Civil Part action with which a Special Civil Part action has been consolidated, the Law Division, Civil Part on its own motion or the motion of a party may remand the action for trial in the Special Civil Part, provided, however, that no such action shall be remanded to a county other than that in which the consolidated Law Division, Civil Part action would have been tried. If the plaintiff in a Special Civil Part action so transferred or consolidated is the prevailing party, the Law Division, Civil Part on plaintiff's or its own motion may remand the action to the Special Civil Part for the county in which it was instituted for the entry of judgment and taxation of costs.

(f) Fees on Transfer to Special Civil Part. If a party in an action transferred to the Special Civil Part thereafter prevails, the filing fees paid by that party to the court from which the action was transferred may be taxed as part of the costs whether the transfer was to the Special Civil Part of the same or another county.

(g) Transfer of Landlord/Tenant Actions. A motion to transfer a summary action for the recovery of premises to the Civil Part of the Law Division pursuant to N.J.S.A. 2A:18-60, shall be made by serving and filing the original of that motion with the Office of the Special Civil Part no later than the last court day prior to the date set for trial. The motion shall be returnable in the Special Civil Part on the trial date, or such date thereafter as the court may determine in its discretion or upon application by the respondent for more time to prepare a response to the motion. Upon the filing of the motion, the Special Civil Part shall take no further action pending disposition of the motion. If the motion is not resolved on the original trial date, the court may require security for payment of rent pending disposition of the motion. If the motion is granted, the Office of the Special Civil Part shall transmit the record in accordance with R. 6:4-1(d). If the motion is denied, the court shall set the action expeditiously for summary hearing.

Note: Source – R.R. 7:6-1(a)(b)(c)(d)(e). Paragraph (b) adopted and former paragraphs (b)(c)(d)(e) redesignated June 29, 1973 to be effective September 10, 1973; paragraph (g) amended July 21, 1980 to be effective September 8, 1980; paragraph (f) amended November 2, 1987 to be effective January 1, 1988; paragraphs (a), (b), (c), (d), (e) and (g) and captions of paragraphs (b), (c) and (e) amended November 7, 1988 to be effective January 2, 1989; paragraph (g) amended July 14, 1992 to be effective September 1, 1992; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (d) amended July 19, 2012 to be effective September 4, 2012; paragraph (f) amended August 1, 2016 to be effective September 1, 2016; paragraphs (d) and (g) amended March 7, 2017 to be effective immediately; paragraphs (b), (c), (d) and (g) amended July 27, 2018 to be effective September 1, 2018; paragraph (e) amended July 31, 2020 to be effective September 1, 2020.

6:4-2. Pretrial Conference

The pretrial conference procedure provided by R. 4:25-1 to R. 4:25-6, inclusive, may be employed in the court's discretion on its own motion or the motion of a party.

Note: Source – R.R. 7:6-3.6:4-3.

6:4-3. Interrogatories; Admissions; Production

(a) Generally. Except as otherwise provided by R. 6:4-3(b) interrogatories maybe served pursuant to the applicable provisions of R. 4:17 in all actions except forcible entry and detainer actions, summary landlord and tenant actions for the recovery of premises, and actions commenced or pending in the Small Claims Section. The 40-day and 60-day periods prescribed by R. 4:17-2 and R. 4:17-4, respectively, for serving

and answering interrogatories shall, however, be each reduced to 30 days in Special Civil Part actions.

(b) Automobile Negligence and Personal Injury Actions. A party in an automobile negligence or personal injury action may propound interrogatories only by demanding, in the initial pleading, that the opposing party answer the appropriate standard set of interrogatories set forth in Forms A, A(1), A(2), C, C(1) through C(4), D, and E of Appendix II to these Rules, specifying to which set of interrogatories answers are demanded and to which questions, if less than all in the set. The demand shall be stated in the propounding party's initial pleading immediately following the signature. Interrogatories shall be served upon a party appearing pro se within 10 days after the date on which the pro se party's initial pleading is received. Answers to the interrogatories shall be served within 30 days after service of the answer, except that a pro se party shall serve answers within 30 days after receipt of the interrogatories. The answers shall be set forth in a document duplicating the appropriate Form, containing the questions propounded, each followed immediately by the answer thereto. Additional interrogatories may be served and enlargements of time to answer may be granted only by court order upon motion on notice, made within the 30-day period, for good cause shown, and on such terms as the court directs.

(c) Physical and Mental Examinations in Personal Injury Actions; Protective Orders. The provisions of R. 4:19 shall apply to personal injury actions in the Special Civil Part, except that the time period prescribed by R. 4:19, requiring that an examination not be scheduled prior to 45 days following the notice of the examination and that a motion for a protective order be filed within this 45-day period, is reduced to 30 days. In addition, a party requesting an examination shall do so by specific demand in the party's answer immediately following the signature line.

(d) Request for Admissions. The provisions of R. 4:22 (admission of facts and genuineness of documents) shall apply to actions in the Special Civil Part.

(e) Production; Inspection. The provisions of R. 4:18 (production of documents, inspection) shall apply to actions in the Special Civil Part.

(f) Actions Cognizable But Not Pending in Small Claims Section, Discovery. Any action filed in the Special Civil Part that is cognizable but not pending in the Small Claims Section may proceed with discovery, but each party is limited to serving interrogatories consisting of no more than five questions without parts. Such interrogatories shall be served and answered within the time limits set forth in R. 6:4-3(a). Additional interrogatories may be served and enlargements of time to answer may be granted only by court order on timely notice of motion for good cause shown.

Note: Source – R.R. 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; caption amended, paragraph (a) amended, and paragraph(d) adopted July 29, 1977 to be effective September 6, 1977; paragraph (a) amended July 24, 1978 to be effective September 11, 1978; paragraph (e) adopted July 15, 1982 to be effective September 13, 1982; paragraph (e) amended July 22, 1983 to be effective September 12, 1983; paragraphs (a), (c),

(d) and (e) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended, paragraph (b) adopted and former paragraphs (b), (c), (d) and (e) redesignated as (c), (d), (e) and (f) respectively, June 29, 1990 to be effective September 4, 1990; paragraph (b) amended August 31, 1990, to be effective September 4, 1990; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (c) caption and text amended, and paragraph (f) amended July 12, 2002 to be effective September 3, 2002; former paragraph (b) deleted and paragraphs (c), (d), (e) and (f) redesignated as paragraphs (b), (c), (d) and (e), respectively, July 28, 2004, to be effective September 1, 2004; paragraph (b) amended, new paragraph (c) adopted, and former paragraphs (c), (d), (e) redesignated as paragraphs (d), (e), (f) July 27, 2006 to be effective September 1, 2006; paragraph (a) amended August 1, 2006 to be effective September 1, 2006; paragraph (f) caption and text amended July 23, 2010 to be effective September 1, 2010.

6:4-4. Depositions

No depositions are permitted in Special Civil Part actions except by order of the court, granted for good cause shown and on such terms as the court directs, on motion with notice to the other parties in the action. If a party or material witness in any action or proceeding resides outside this State, or is within this State but is physically incapacitated or about to leave the State, the person's deposition may be taken in accordance with R. 4:10 and R. 4:12 to R. 4:16 inclusive, on leave of court granted with notice or, for good cause, without notice.

Note: Source – R.R. 7:6-5; amended July 13, 1994 to be effective September 1, 1994; amended July 27, 2006 to be effective September 1, 2006.

6:4-5. Time for Completion of Discovery Proceedings

All proceedings referred to in R. 6:4-3 and R. 6:4-4, including discovery in actions that are cognizable but not pending in the Small Claims Section, except for proceedings under R. 4:22 (request for admissions), shall be completed as to each defendant within 90 days of the date of service of that defendant's answer, unless on motion and notice, and for good cause shown, an order is entered before the expiration of said period enlarging the time for such proceedings to a date specified in the order. In actions transferred to the Special Civil Part pursuant to R. 4:3-4(c), however, the parties shall complete discovery within such time to which they would have been entitled under R. 4:24-1 had the action not been transferred.

Note: Source — R.R. 7:6-6; amended November 7, 1988 to be effective January 2, 1989; amended July 12, 2002 to be effective September 3, 2002; amended July 19, 2012 to be effective September 4, 2012.

6:4-6. Sanctions

The provisions of R. 4:23 (sanctions for failure to make discovery) shall apply to actions in the Special Civil Part, except that:

(a) Dismissal or Suppression; Time Periods. The 90-day period prescribed by R. 4:23-5 (a)(1) for motions to vacate orders of dismissal or suppression is reduced to 60 days.

(b) Restoration Fees. The amounts of the restoration fees of \$100 and \$300 specified in R. 4:23-5 (a) are reduced to \$25 if the motion is made within 30 days and \$75 thereafter.

(c) Dismissal or Suppression With Prejudice; Time Period. The 60-day period prescribed by R. 4:23-5(a)(2) is reduced to 45 days.

(d) Form of Motion; Attorney's Affidavit. The motion to dismiss or suppress with prejudice shall be filed in accordance with R. 6:3-3(c) and the attorney for the delinquent party shall file the affidavit specified in R. 4:23-5(a)(2) with the papers filed in response to the motion.

(e) Notice to Client/Pro Se Party Pursuant to R. 4:23-5(a)(1). The notice prescribed by Appendix II-A of these rules shall be modified to reflect the time periods and restoration fees set forth in paragraphs (a), (b) and (c) above.

(f) Notice to Client/Pro Se Party Pursuant to R. 4:23-5(a)(2). The notice prescribed in Appendix II-B of these rules shall be modified to eliminate the second paragraph referring to a return date and substitute in its stead a statement that the Clerk will notify the party of the date, time, and place of the hearing on the motion.

Note: Adopted July 29, 1977 to be effective September 6, 1977; amended November 7, 1988 to be effective January 2, 1989; former text amended and new paragraphs (a) through (f) adopted July 28, 2004 to be effective September 1, 2004; paragraphs (c), (e), and (f) amended July 22, 2014 to be effective September 1, 2014.

6:4-7. Adjournment of Proceedings

(a) Generally. All requests for adjournments of hearings, trials and complementary dispute resolution events shall be made to the clerk's office as soon as the need is known, but absent good cause for the delay not less than 5 days before the scheduled court event. Prior to contacting the clerk's office, the party requesting the adjournment shall notify the adversary that the request is going to be made and, except for requests made pursuant to paragraph (b) of this rule, shall then notify the clerk of the adversary's response. The court shall then decide the issue and, if granted, assign a new date. The requesting party shall notify the adversary of the court's response.

(b) **Adjournment to Complete Discovery.** If a case in which discovery is permitted is listed for mediation or trial before the expiration of the time allowed by these rules or court order for discovery, an adjournment to complete discovery shall routinely be granted without necessity of an appearance or the consent of the adversary if the request is made within the discovery period and discovery was timely commenced, as required by these rules. The requesting party shall notify the adversary of the court's response.

Note: Adopted July 12, 2002 to be effective September 3, 2002, incorporating a portion of R. 6:5-2(a) as paragraph (b); paragraph (b) amended July 27, 2018, to be effective September 1, 2018.