

RULE 6:7. PROCESS TO ENFORCE JUDGMENTS

6:7-1. Requests for Issuance of Writs of Execution; Contents of Writs of Execution and Other Process for the Enforcement of Judgments; Notice to Debtor; Claim for Exemption; Warrant of Removal; Enforcement of Consent Judgments and Stipulations of Settlement in Tenancy Actions; Writs of Possession

(a) Requests for Issuance; Intention to Return. All requests for issuance of writs of execution and other process for the enforcement of judgments shall be made in writing to the clerk at the principal location of the court. A request for the issuance of a writ of execution against goods and chattels shall be accompanied by a statement of the amount due and shall be issued by the clerk in the form set forth in Appendix XI-H. A request for the issuance of a wage execution shall be accompanied by a certification of the amount due and shall be issued by the clerk who may affix the designated judge's electronic signature thereon for uncontested wages using the form set forth in Appendix XI-J. The statement or certification of the amount due shall include the amount of the judgment, subsequent costs that have accrued, any credits for partial payments since entry of the judgment, and a detailed explanation of the method by which interest accrued subsequent to the judgment has been calculated, taking into account all partial payments made by the judgment-debtor. The court officer shall give to the judgment-creditor or judgment-creditor's attorney at least 30 days' notice of an intention to return a wage execution or an unexpired writ of execution, marked unsatisfied or partially satisfied and may so return the writ unless further instructions are furnished within that time period.

(b) Contents of Writs of Execution and Other Process for the Enforcement of Judgments. All writs of execution and other process for the enforcement of judgments shall provide that any levy pursuant thereto shall exclude:

(1) all funds in an account of the debtor with a bank or other financial institution, if all deposits into the account during the 90 days immediately prior to service of the writ were electronic deposits, made on a recurring basis, of funds identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law, and

(2) all funds deposited electronically in an account of the debtor with a bank or other financial institution during the two months immediately prior to the account review undertaken by the bank or other financial institution in response to the writ that are identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law.

(c) Notice to Debtor. The provisions of R. 4:59-1(h) respecting notice to debtor, exemption claims and deferment of turnover and sales of assets shall apply to all writs of execution issued by the Law Division, Special Civil Part, except that a copy of the Notice to Debtor shall not be filed by the levying officer with the clerk of the court after a levy on a bank account. The notice to debtor shall be in the form prescribed by Appendix VI to these rules.

(d) Warrant of Removal; Issuance, Execution. No warrant of removal shall issue until the expiration of three business days after entry of a judgment for possession, except that a warrant shall be issued within two days from the date of the judgment in the case of a seasonal tenancy subject to N.J.S.A. 2A:42-10.17. A warrant of removal shall not be executed earlier than the third business day after service on a residential tenant. If a judgment for possession is entered in a summary action for the recovery of premises and the landlord fails to apply in writing for a warrant of removal within 30 days after the entry of the judgment, or if the warrant is not executed within 30 days of its issuance, such warrant shall not thereafter be issued or executed, as the case may be, except on application to the court and written notice to the tenant served at least seven days prior thereto by simultaneously mailing such notice by both certified and ordinary mail to the tenant or by ordinary mail to the tenant's attorney, if any; provided, however, that either 30 day period may be tolled for the duration of any order for orderly removal or any other court initiated stay, extended by court order or written agreement executed by the parties and filed with the clerk. For purposes of this rule, entry of judgment shall be defined as the date upon which the right to request a warrant for removal accrues.

(e) Enforcement of Consent Judgments and Stipulations of Settlement in Tenancy Actions. A request to enforce a settlement agreement or consent judgment in a tenancy action shall be by certification. It must state the facts upon which the claim of breach is based and the desired relief. The certification must be filed with the clerk and a copy must be sent to the adverse party and the adverse party's attorney, if any, by ordinary mail or alternatively, if directed to a tenant, by posting on the door of the premises.

(f) Writs of Possession. Orders and writs of possession in summary actions for the possession of real property filed pursuant to R. 6:1-2(a)(4) shall be issued to the sheriff, except that in cases brought by a tenant against a landlord pursuant to N.J.S.A. 2A:39-1 et seq., orders and writs may be issued to a Special Civil Part Officer.

Note: Source – R.R. 7:11-1; former rule redesignated as paragraph (a) and paragraph (b) adopted and caption amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended November 1, 1985 to be effective January 2, 1986; caption amended and paragraph (c) adopted November 7, 1988 to be effective January 2, 1989; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; caption and paragraph (c), caption and text, amended July 13, 1994 to be effective September 1, 1994; paragraph (a) caption and text amended June 28, 1996 to be effective September 1, 1996; caption amended and paragraph (d) adopted July 18, 2001 to be effective November 1, 2001; paragraph (c) amended September 14, 2004 to be effective immediately; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; caption amended, former paragraph (b) redesignated as paragraph (c) and amended, former paragraphs (c) and (d) redesignated as paragraphs (d) and (e), and new paragraph (b) caption and text adopted July 23, 2010 to be effective September 1, 2010; subparagraph (b)(2) amended May 17, 2011 to be effective immediately; caption amended, paragraph (c) amended, and new paragraph (f) adopted July 19, 2012 to be effective September 4, 2012; paragraph (d) amended July 22, 2014 to be effective September 1, 2014; paragraph (a) amended August 1, 2016 to be effective September 1, 2016; paragraph (a) and (d) amended July 31, 2020 to be effective September 1, 2020.

6:7-2. Orders for Discovery; Information Subpoenas

(a) Order for Discovery. The court may, upon the filing by the judgment creditor or a successor in interest (if that interest appears of record) of a petition verified by the judgment creditor or the creditor's agent or attorney stating the amount due on the judgment, make an order, upon good cause shown, requiring any person who may possess information concerning property of the judgment debtor to appear before the attorney for the judgment creditor or any other person authorized to administer an oath and make discovery under oath concerning that property at a time and place therein specified. The location specified shall be in the county where the person to be deposed lives or works.

No more than one appearance of any such person may be required without further court order. The time and place specified in the order shall not be changed without the written consent of the person to be deposed or upon further order of the court.

(b) Information Subpoena

(1) To Judgment Debtor. An information subpoena may be served upon the judgment debtor, without leave of court, accompanied by an original and copy of written questions and a prepaid, addressed return envelope. The information subpoena and written questions shall be in the form and limited to those set forth in Appendix XI-L to these Rules. Answers shall be made in writing, under oath or certification, by the person upon whom served, if an individual, or by an officer, director, agent or employee having the information sought, if a corporation, partnership or sole proprietorship. The original subpoena, with the answers to the written questions annexed thereto shall be returned to the judgment creditor, if pro se, or judgment creditor's attorney within 14 days after service thereof.

An information subpoena shall not be served on a judgment debtor more frequently than once in any six-month period without leave of court.

(2) To Other Person or Entity. An information subpoena may be served upon banking institutions possibly used by the judgment-debtor without leave of court or upon possible employers or account-debtors (who are business entities) of the judgment-debtor upon ex parte application, supported by certification, and court order, if the judgment-debtor has failed to fully answer an information subpoena served pursuant to subparagraph (1) within 21 days of service. The application shall be granted if the court determines that the information subpoena is reasonably necessary to effectuate a post-judgment judicial remedy and that the party receiving the subpoena may have in their possession information about the debtor that will assist the creditor in collecting the judgment. The information subpoena shall be accompanied by an original and copy of written questions and a prepaid, addressed return envelope. The information subpoena and written questions shall be in the form and limited to those set forth in Appendix XI-R to these Rules, except that an information subpoena served upon a banking institution shall contain a certification by the judgment-creditor or the creditor's attorney that the

debtor has failed to fully answer an information subpoena served pursuant to R. 6:7-2(b)(1) within 21 days of service, that the information subpoena is reasonably necessary to effectuate a post-judgment judicial remedy, and that the bank may have in its possession information about the debtor that will assist the creditor in collecting the judgment. Answers shall be made in writing, under oath or certification, by the person served, if an individual, or by an officer, director, agent or employee having the information sought, if a corporation, partnership or sole proprietorship. The original subpoena, with the answers to the written questions annexed thereto, shall be returned to the judgment creditor, if pro se, or judgment creditor's attorney within 14 days after service thereof.

(c) Service of Proceedings. A copy of the order for discovery as provided in paragraph (a) of this rule shall be served personally or by registered or certified mail, return receipt requested, and simultaneously by regular mail, at least 10 days before the date for appearance fixed therein. The information subpoena, as provided for in paragraph (b) of this rule shall be served personally or by registered or certified mail, return receipt requested, and simultaneously by regular mail.

Service of an order for discovery or an information subpoena shall be effective as set forth in R. 6:2-3(d)(4). Upon completion of service, the failure to comply with an information subpoena shall be treated as a failure to comply with an order for discovery entered in accordance with paragraph (a) of this rule.

(d) Enforcement Against Other Person or Entity. Proceedings to seek relief pursuant to R. 1:10-3, when a person who is not a party fails to obey an order for discovery or an information subpoena, may be commenced by order to show cause or notice of motion.

(e) Enforcement by Motion. Proceedings to seek relief pursuant to R. 1:10-3, when a judgment-debtor fails to obey an order for discovery or an information subpoena, shall be commenced by notice of motion supported by affidavit or certification. The notice of motion and certification shall be in the form set forth in Appendices XI-M and N to these Rules. The notice of motion shall contain a return date and shall be served on the judgment-debtor and filed with the clerk of the court not later than 10 days before the time specified for the return date. The moving papers shall be served on the judgment-debtor either in person or simultaneously by regular and certified mail, return receipt requested. The notice of motion shall state that the relief sought will include an order:

(1) adjudicating that the judgment-debtor has violated the litigant's rights of the judgment-creditor by failing to comply with the order for discovery or information subpoena;

(2) compelling the judgment-debtor to immediately furnish answers as required by the order for discovery or information subpoena;

(3) directing that if the judgment-debtor fails to appear in court on the return date or to furnish the required answers, he or she shall be arrested and confined

to the county jail until he or she has complied with the order for discovery or information subpoena;

(4) directing the judgment-debtor, if he or she fails to appear in court on the return date, to pay the judgment-creditor's attorney fees, if any, in connection with the motion to enforce litigant's rights; and

(5) granting such other relief as may be appropriate.

The notice of motion shall also state, in the case of an information subpoena, that the court appearance may be avoided by furnishing to the judgment-creditor written answers to the information subpoena and questionnaire at least 3 days before the return date.

(f) Order to Enforce Litigant's Rights. If the judgment-debtor has failed to appear in court on the return date and the court enters an order to enforce litigant's rights, it shall be in the form set forth in Appendix XI-O to these Rules and shall state that upon the judgment-debtor's failure, within 10 days of the certified date of mailing or personal service of the order, to comply with the information subpoena or discovery order, the court may issue an arrest warrant. The judgment-creditor shall serve a copy of the signed order upon the judgment-debtor either personally or by mailing it simultaneously by regular and certified mail, return receipt requested. The date of mailing or personal service shall be certified on the order.

(g) Warrant for Arrest. Upon the judgment-creditor's certification, in the form set forth in Appendix XI-P to these Rules, that a copy of the signed order to enforce litigant's rights has been served upon the judgment-debtor as provided in this rule, that 10 days have elapsed and that there has been no compliance with the information subpoena or discovery order, the court may issue an arrest warrant. If the judgment debtor is to be arrested in a county other than the one in which the judgment was entered, the warrant shall be issued directly to a Special Civil Part Officer or the Sheriff of the county where the judgment debtor is to be arrested, and the warrant shall have annexed to it copies of the order to enforce litigant's rights and the certification in support of the application for the warrant. The warrant shall be in the form set forth in Appendix XI-Q to these Rules and, except for good cause shown and upon such other terms as the court may direct, shall be executed by a Special Civil Part Officer or Sheriff only between the hours of 7:30 a.m. and 3:00 p.m. on a day when the court is in session. If the notice of motion and order to enforce litigant's rights were served on the judgment-debtor by mail, the warrant may be executed only at the address to which they were sent. In all cases the arrested judgment-debtor shall promptly be brought before a judge of the Superior Court in the county where the judgment-debtor is arrested and released upon compliance with the order for discovery or information subpoena. When the judgment-debtor has been arrested for failure to answer an information subpoena, the clerk shall furnish the judgment-debtor with a blank form containing the questions attached to the information subpoena, as set forth in Appendix XI-L to these Rules.

(h) Execution of Warrants by Special Civil Part Officers and Sheriffs. A warrant may be directed to the sheriff in the first instance, but a warrant directed to a Special Civil Part Officer shall remain with the Officer for execution for six months, at the conclusion of which the Officer shall furnish a certification of his or her efforts to serve the warrant and the judgment creditor may apply ex parte for an order directing the issuance of a warrant to the sheriff.

(i) Expiration of Unserved Warrants. If the warrant for arrest is not executed within 24 months after the date of the entry of the order authorizing it, both the order and the warrant shall be deemed to have expired and to be of no further effect.

Note: Source — R.R. 7:11-3(a)(b), 7:11-4. Paragraph (a) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended July 17, 1975 to be effective September 8, 1975; amended July 21, 1980 to be effective September 8, 1980; caption amended, paragraph (a) caption and text amended, paragraph (b) adopted and former paragraph (b) amended and redesignated as paragraph (c) June 29, 1990 to be effective September 4, 1990; paragraph (a) amended and paragraphs (d), (e) and (f) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (b), (d), (e) and (f) amended July 13, 1994 to be effective September 1, 1994; former paragraph (b) redesignated as subparagraph (b)(1), subparagraph (b)(2) adopted, paragraph (c) amended, paragraph (d) adopted, former paragraph (d) amended and redesignated as paragraph (e), former paragraphs (e) and (f) redesignated as paragraphs (f) and (g) June 28, 1996 to be effective September 1, 1996; subparagraph (b)(2) and paragraph (g) amended July 10, 1998 to be effective September 1, 1998; paragraph (h) adopted July 5, 2000 to be effective September 5, 2000; new paragraph (h) added, and former paragraph (h) redesignated as paragraph (i) July 12, 2002 to be effective September 3, 2002; paragraphs (f) and (g) amended July 28, 2004 to be effective September 1, 2004; paragraph (g) amended July 19, 2012 to be effective September 4, 2012; paragraph (f) amended July 27, 2018 to be effective September 1, 2018.

6:7-3. Wage Executions; Notice, Order, Hearing; Accrual of Interest, Credits and Costs

(a) Notice, Order, Hearing. The provisions of R. 4:59-1(e) (wage executions) are applicable to the Special Civil Part, except as otherwise provided by R. 6:7-1(a) and except that the judgment-debtor shall notify the Office of the Special Civil Part by filing in the county in which the execution originated and the judgment-creditor in writing within 10 days after service of the notice of any reasons why the order should not be entered and the judgment-creditor may waive in writing the right to appear at the hearing on the objection and rely on the papers.

(b) Accrual of Interest. The judgment creditor or the judgment creditor's attorney who seeks to recover interest that has accrued subsequent to issuance of the execution must file an affidavit or certification with the Office of the Special Civil Part setting forth the amount of accrued interest. A copy of the affidavit or certification shall be served personally or by certified mail on the judgment debtor's employer by the judgment creditor or the judgment creditor's attorney. A copy of the affidavit or certification shall be sent by ordinary mail by the judgment creditor or judgment creditor's attorney to the judgment debtor at the judgment debtor's last known address and to the court officer who served the execution on the judgment debtor's employer. The affidavit

or certification shall state that the interest and the court officer fees thereon have been imposed pursuant to R. 4:42-11 and must be collected in accordance with same by the employer. The court officer shall give the judgment creditor or judgment creditor's attorney at least 30 days' notice of intention to return the wage execution. The affidavit or certification shall be filed with the Office of the Special Civil Part prior to the return of the wage execution by the court officer. An affidavit or certification filed subsequent to the return of the wage execution shall be returned by the Office of the Special Civil Part to the judgment creditor or judgment creditor's attorney with a notation or notice that the wage execution has been returned.

(c) **Accrual of Credits and Costs.** The judgment creditor or the judgment creditor's attorney who seeks to amend an active wage execution to adjust for credits received or to recover taxed costs set forth in R. 1:43 that may have accrued subsequent to issuance of the wage execution must file an affidavit or certification with the Office of the Special Civil Part setting forth the amount of credits received or costs accrued. A copy of the affidavit or certification shall be served personally or by certified mail on the judgment debtor's employer by the judgment creditor or attorney. A copy of the affidavit or certification shall be sent by ordinary mail by the judgment creditor or judgment creditor's attorney to the judgment debtor at the judgment debtor's last known address and to the court officer who served the wage execution on the judgment debtor's employer. An affidavit or certification filed subsequent to the return of the wage execution shall be returned by the Office of the Special Civil Part to the judgment creditor or judgment creditor's attorney with a notation that their request to amend is denied because the wage execution is no longer active.

Note: Source – R.R. 7:11-5. Amended July 7, 1971 to be effective September 13, 1971; amended July 14, 1972 to be effective September 5, 1972; former rule redesignated as paragraph (a) and paragraph (b) adopted and caption amended July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended June 29, 1990 to be effective September 4, 1990; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraphs (a) and (b) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended March 7, 2017 to be effective immediately; paragraph (a) amended July 27, 2018 to be effective September 1, 2018; caption amended, paragraph (b) amended and new paragraph (c) adopted July 31, 2020 to be effective September 1, 2020.

6:7-4. Chattel Executions; Time at Which Levy Can be Made; Accrual of Interest, Credits and Costs

(a) **Personal Property Within Residential Premises.** Levies on personal property located within residential premises can be made only between the hours of 6:00 a.m. and 10:00 p.m., unless otherwise permitted by court order, which may be sought by ex parte application.

(b) **Other Personal Property.** Levies on other personal property may be made at any time, but a Special Civil Part Officer may be required to levy on such property outside the hours of 6:00 a.m. to 10:00 p.m. only if the property cannot be levied on between the hours of 6:00 a.m. and 10:00 p.m.

(c) **Accrual of Interest.** The judgment creditor or judgment creditor's attorney who seeks to recover interest that has accrued subsequent to issuance of the execution must file an affidavit or certification with the Office of the Special Civil Part setting forth the amount of accrued interest. A copy of the affidavit or certification shall be sent by ordinary mail and by certified or registered mail, return receipt requested, by the judgment creditor or judgment creditor's attorney to the judgment debtor at the judgment debtor's last known address and by ordinary mail to the court officer to whom the writ of execution has been assigned. The affidavit or certification shall state that the interest and the court officer fees thereon have been imposed pursuant to R. 4:42-11 and must be collected in accordance with that rule by the officer. The court officer shall give the judgment creditor or judgment creditor's attorney at least 30 days' notice of intention to return the chattel execution. The affidavit or certification shall be filed with the Office of the Special Civil Part prior to the return of the execution by the court officer. An affidavit or certification filed subsequent to the return of the execution shall be returned by the Office of the Special Civil Part to the judgment creditor or judgment creditor's attorney with a notation or notice that the execution has been returned.

(d) **Accrual of Credits and Costs.** The judgment creditor or the judgment creditor's attorney who seeks to amend an active chattel execution to adjust for credits received or to recover taxed costs set forth in R. 1:43 that may have accrued subsequent to issuance of the chattel execution must file an affidavit or certification with the Office of the Special Civil Part setting forth the amount of credits received or costs accrued. A copy of the affidavit or certification shall be sent by ordinary mail by the judgment creditor or judgment creditor's attorney to the judgment debtor at the judgment debtor's last known address. The affidavit or certification shall be filed with the Office of the Special Civil Part prior to the return of the execution by the court officer and prior to the execution's expiration date. An affidavit or certification filed subsequent to the return of the execution or subsequent to the execution's expiration date shall be returned by the Office of the Special Civil Part to the judgment creditor or judgment creditor's attorney with a notation that their request to amend the chattel execution is denied because the execution is no longer active.

Note: Adopted July 12, 2002 to be effective September 3, 2002; caption amended and new paragraph (c) adopted July 28, 2004 to be effective September 1, 2004; paragraph (c) amended July 19, 2012 to be effective September 4, 2012; caption amended, paragraph (c) amended and new paragraph (d) adopted July 31, 2020 to be effective September 1, 2020.