SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to the Rules Governing the Courts of the State of New Jersey are adopted to be effective September 1, 2016.

For the Court,

Chief Justice

Dated: August 1, 2016

The Rules and Appendices Amended and Adopted by this Order Are as Follows:

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1:4-10. Assignment of Judgment

Whenever there shall be an assignment of a judgment, the assignee may become the assignee of record by filing the assignment of judgment with the Clerk of the Court that entered the judgment. All such assignments of judgment must be in writing, showing the date thereof; the name and address of the assignor and assignee; the amount of the judgment or the amount remaining due on the judgment, whichever is lesser, and when and by what court the judgment was granted; a statement describing the rights assigned; and the docket number. All such assignments of judgment shall be executed by the judgment creditor or, if applicable, by a prior assignee of record and must be acknowledged as are deeds for recordation. When such assignment is filed with the court as herein provided, all forms of post-judgment civil process thereafter shall be captioned in the name of the original judgment creditor with the added wording "by assignee" followed by the name of the assignee.

Note: New rule adopted August 1, 2016 to be effective September 1, 2016.

1:5-1. Service: When Required

(a) ...no change.

(b) Criminal and Municipal Actions. In criminal and municipal actions, unless otherwise provided by rule or court order, written motions (not made *ex parte*), briefs, appendices, petitions, memoranda and other papers shall be served upon all attorneys of record in the action, upon parties appearing *pro se* and upon such other agencies of government as may be affected by the relief sought.

Note: Source — *R.R.* 3:11-4(a), 4:5-1. Paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended August 1, 2016 to be effective September 1, 2016.

1:5-6. Filing

(a) ...no change.

(b) What Constitutes Filing With the Court. Except as otherwise provided by *R.* 1:6-4 (motion papers), *R.* 1:6-5 (briefs), *R.* 4:42-1(e) (orders and judgments), and *R.* 5:5-4 (motions in Family actions), a paper is filed with the trial court if the original is filed as follows:

(1) In civil actions in the Superior Court, Law Division, and in actions in the Superior Court, Chancery Division, General Equity, except mortgage and tax foreclosure actions, with the deputy clerk of the Superior Court in the county of venue;

(2) In criminal actions in the Superior Court, Law Division, with the Criminal Division Manager in the county of venue, as designee of the deputy clerk of the Superior Court;

(3) In mortgage and tax foreclosure actions, with the Clerk of the Superior Court, unless and until the action is deemed contested and the papers have been sent by the Clerk to the county of venue, in which event subsequent papers shall be filed with the deputy clerk of the Superior Court in the county of venue;

(4) In actions in the Chancery Division, Family Part, with the deputy clerk of the Superior Court in the county of venue if the action is a dissolution action, with the Surrogate of the county of venue if the action is for adoption, and in all other actions, with the Family Division Manager in the county of venue, as designee of the deputy clerk of the Superior Court;

(5) In probate matters in the Surrogate's Court, with the Surrogate, and in actions in the Chancery Division, Probate Part, with the Surrogate of the county of venue as deputy clerk of the Superior Court;

(6) In actions of the Special Civil Part, as provided by Part VI of these rules;

(7) In actions in the Tax Court, as provided by Part VIII of these rules;

(8) In actions in the Municipal Courts, as provided by Part VII of these rules.

The foregoing notwithstanding, in any case the judge or, at the judge's chambers, a member of the staff may accept papers for filing if they show the filing date and the judge's name and office. The filed papers shall be forwarded forthwith to the appropriate office.

(c) ...no change.

(d) ...no change.

(e) ...no change.

Note: Source — *R.R.* 1:7-11, 1:12-3(b), 2:10, 3:11-4(d), 4:5-5(a), 4:5-6(a) (first and second sentence), 4:5-7 (first sentence), 5:5-1(a). Paragraphs (b) and (c) amended July 14, 1972 to be effective September 5, 1972; paragraph (c) amended November 27, 1974 to be effective April 1, 1975; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended November 26, 1990 to be effective April 1, 1991; paragraphs (b) and (c) amended, new text substituted for paragraph (d) and former paragraph (d) redesignated paragraph (e) July 13, 1994 to be effective September 1, 1994; paragraph (b)(1) amended, new paragraph (b)(2) adopted, paragraphs (b)(2), (3), (4), (5) and (6) redesignated paragraphs (b)(3), (4), (5), (6) and (7), and newly designated paragraph (b)(4) amended July 13, 1994 to be effective January 1, 1995; paragraphs (b)(1), (3) and (4) amended June 28, 1996 to be effective September 1, 1996; paragraph (b)(4) amended July 10, 1998 to be effective September 1, 1998; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (c)(1) and (c)(3) amended July 28, 2004 to be effective September 1, 2004; subparagraph (c)(1)(E) adopted, paragraphs (c)(2) and (c)(3) amended, and paragraph (c)(4) adopted July 27, 2006 to be effective September 1, 2006; paragraph (b) amended June 15, 2007 to be effective September 1, 2007; subparagraph (c)(1)(C) amended July 16, 2009 to be effective September 1, 2009; subparagraph (c)(1)(E) amended December 20, 2010 to be effective immediately; subparagraphs (b)(4) and (c)(1)(C) amended July 21, 2011 to be effective September 1, 2011; subparagraph (c)(2) amended July 19, 2012 to be effective September 4, 2012; subparagraph (c)(1)(C) amended July 9, 2013 to be effective September 1, 2013; new subparagraph (b)(8) added August 1, 2016 to be effective September 1, 2016.

1:6-5. Briefs

The moving party's brief in support of a motion shall, pursuant to *R.* 1:6-3, be served and submitted to the court with the moving papers. The respondent shall serve and submit an answering brief at least 8 days before the return date. Except for a brief submitted in support of a dispositive motion or cross-motion, a brief submitted in the Civil Part or the Special Civil Part in support of a motion or cross-motion and any answering brief, exclusive of any tables of contents or authorities, shall not exceed 40 pages and shall contain no more than 26 double-spaced lines of no more than 65 characters including spaces, each of no less than 10-pitch or 12-point type. A brief submitted in support of a dispositive motion or cross-motion, which includes for purposes of this rule only a motion to dismiss pursuant to *R.* 4:6-2(e), a motion for summary judgment pursuant to *R.* 4:46, and a motion for summary judgment pursuant to *R.* 4:69-2, and any answering brief, exclusive of any tables of contents or authorities, shall not exceed 65 pages and shall contain no more than 26 double-spaced lines of no more than 65 characters including spaces, each of no less than 10-pitch or 12-point type. A reply brief, if any, shall be served and submitted at least 4 days before the return date. A reply brief shall not exceed 15 pages and shall contain no more than 26 double-spaced lines of no more than 65 characters including spaces, each of no less than 10-pitch or 12-point type. Prior to the date on which the brief is due to be submitted and served, a party may make an application in writing to the court to submit an over-length brief exceeding these limitations, which the court may permit when appropriate in light of the complexity of the issues raised and without awaiting a response from any other party concerning the request. No over-length briefs may be submitted without advance permission to do so. Briefs may not be submitted after the time fixed by this rule or by court order, including the pretrial order, without leave of court, which may be applied for *ex parte*.

Note: Source — *R.R.* 4:5-5(b) (first sentence), 4:5-10(a)(b)(c)(e); paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; amended July 10, 1998 to be effective September 1, 1998; amended July 5, 2000 to be effective September 5, 2000; amended August 1, 2016 to be effective September 1, 2016.

1:9-3. Service

A subpoena may be served by any person 18 or more years of age. Service of a subpoena shall be made by delivering a copy thereof to the person named together with tender of the fee allowed by law, except that if the person is a witness in a criminal action for the State or an indigent defendant, the fee shall be paid before leaving the court at the conclusion of the trial by the sheriff or, in the municipal court, by the clerk thereof. A subpoena which seeks only the production of documents or records may be served by registered, certified or ordinary mail and, if served in that manner, shall be enforceable only upon receipt of a signed acknowledgment and waiver of personal service.

Note: Source — *R.R.* 3:5-10(b) (last sentence), 3:5-10(d), 4:16-3, 5:2-2, 6:3-7(c), 7:4-6(a) (last sentence), 8:4-9(d); amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

1:21-2. Appearances Pro Hac Vice

(a) Conditions for Appearance.

(1) An attorney of any other United States jurisdiction, of good standing there, whether practicing law in such other jurisdiction as an individual or a member or employee of a partnership or an employee of a professional corporation or limited liability entity authorized to practice law in such other jurisdiction, or an attorney admitted in this State, of good standing, may, at the discretion of the court in which any matter is pending, be permitted, pro hac vice, to speak in such matter in the same manner as an attorney of this State who is in compliance with Rule 1:21-1(a)(1). Except for attorneys who are employees of and are representing the United States of America or a sister state, no attorney shall be admitted under this rule without annually complying with Rule 1:20-1(b), Rule 1:28-2, and Rule 1:28B-1(e) during the period of admission. An attorney granted admission pro hac vice in accordance with this rule must include a copy of the order granting such permission when submitting to the New Jersey Lawyers' Fund for Client Protection the annual fee provided for by Rule 1:20-1 and the other rules referred to herein. An attorney admitted both in this State and any other jurisdiction shall not, however, be permitted to appear pro hac vice if for any reason disqualified from practice in this State.

(2) A foreign attorney (licensed outside the United States), of good standing there, whether practicing law in such foreign jurisdiction as an individual or a member or employee of a partnership or an employee of a professional corporation or limited liability entity authorized to practice law in such foreign jurisdiction, may, at the discretion of the court in which any matter is pending, be permitted, pro hac vice, to speak in such matter in the same manner as an attorney of this State who is in compliance with Rule 1:21-1(a)(1). A foreign attorney may not advise the client on the substantive law of a United States jurisdiction or on procedural issues. New Jersey counsel must accompany the foreign attorney at all proceedings. No foreign attorney

shall be admitted under this rule without annually complying with Rule 1:20-1(b), Rule 1:28-2, and Rule 1:28B-1(e) during the period of admission. A foreign attorney granted admission pro hac vice in accordance with this rule must include a copy of the order granting such permission when submitting to the New Jersey Lawyers' Fund for Client Protection the annual fee provided for by Rule 1:20-1 and the other Rules referred to herein. A foreign attorney admitted both in this State and any other jurisdiction shall not, however, be permitted to appear pro hac vice if for any reason disqualified from practice in this State.

(b) Application for Admission. An application for admission pro hac vice shall be made on motion to all parties in the matter; which shall contain the following:

(1) In [both] civil, [and] criminal, and municipal actions, the motion shall be supported by an affidavit or certification of the attorney stating that:

(A) the attorney is a member in good standing of the bar of the highest court of the state in which the attorney is domiciled or principally practices law or, for foreign attorneys, the attorney is a member in good standing of the bar of the highest court of the jurisdiction in which the attorney is domiciled or principally practices law;

(B) the attorney is associated in the matter with New Jersey counsel of record qualified to practice pursuant to Rule 1:21-1;

(C) the client has requested to be represented by said attorney; and

(D) no disciplinary proceedings are pending against the attorney in any jurisdiction and no discipline has previously been imposed on the attorney in any jurisdiction. If discipline has previously been imposed, the certification shall state the date, jurisdiction, nature of the ethics violation and the penalty imposed. If proceedings are pending, the

certification shall specify the jurisdiction, the charges and the likely time of their disposition. An attorney admitted pro hac vice shall have the continuing obligation during the period of such admission promptly to advise the court of a disposition made of pending charges or of the institution of new disciplinary proceedings.

(E) With regard to foreign attorneys, associated New Jersey counsel must submit a separate affidavit stating that he or she has evaluated the foreign attorney's credentials and certifies his or her satisfaction with them.

(2) In criminal and municipal actions a motion so supported shall be granted unless the court finds, for specifically stated reasons, that there are supervening considerations of judicial administration.

(3) In civil actions the motion shall be granted only if the court finds, from the supporting affidavit, that there is good cause for such admission, which shall include at least one of the following:

(A) the cause in which the attorney seeks admission involves a complex field of law in which the attorney is a specialist, or

(B) there has been an attorney-client relationship with the client for an extended period of time, or

(C) there is a lack of local counsel with adequate expertise in the field involved, or

(D) the cause presents questions of law involving the law of the outside [foreign] jurisdiction in which the applicant is licensed, or

(E) there is need for extensive discovery or other proceedings in the outside [foreign] jurisdiction in which the applicant is licensed, or

(F) such other reason similar to those set forth in this subsection as would present good cause for the pro hac vice admission.

(c) Contents of Order. ...no change

(d) Appearances in Subsequent Courts. ... no change

(e) Revocation of Permission to Appear. ... no change

Note: Source -- R.R. 1:12-8. Amended December 16, 1969 effective immediately; caption and text amended November 27, 1974 to be effective April 1, 1975; amended January 10, 1979 to be effective immediately; former rule amended and redesignated as paragraphs (a) and (b) and paragraph (c) adopted July 22, 1983 to be effective September 12, 1983; paragraph (a) amended January 31, 1984 to be effective February 15, 1984; new paragraph (c) adopted and former paragraph (c) redesignated as paragraph (d) November 1, 1985 to be effective January 2, 1986; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraphs (b)(2) and (3) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(1)(iv) added June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and (a)(1)(iv) amended and redesignated as (a)(1)(A), (a)(1)(B), (a)(1)(C), and (a)(1)(D) July 5, 2000 to be effective September 5, 2000; paragraph (a) amended and subsections of paragraph (a)(3) redesignated from (i) through (vi) to (A) through (F) July 12, 2002 to be effective September 3, 2002; paragraph (a) amended, portion of paragraph (a) redesignated as new paragraph (b), and former paragraphs (b), (c), and (d) redesignated as (c), (d), and (e) July 28, 2004 to be effective September 1, 2004; paragraph (a) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) amended and redesignated as (a)(1), new paragraph (a)(2) adopted, paragraphs (b)(1) and (b)(1)(A) amended, new paragraph (b)(1)(E) adopted, paragraph (b)(2) amended, paragraphs (b)(3)(D) and (E) amended August 1, 2016 to be effective September 1, 2016.

1:23-5. Bar Examination Test-Taking Improprieties

(a) All allegations of impropriety in the taking of a bar examination by a bar applicant who has not been admitted to practice law in this state shall be investigated by the Assistant Secretary to the Board of Bar Examiners (Assistant Secretary) and staff working under the direction of the Assistant Secretary. Such an investigation may include interviews with the applicant or witnesses as the Assistant Secretary and staff deem appropriate.

(b) Upon completion of the investigation, the Assistant Secretary shall make a determination whether the charges of impropriety have been established by a preponderance of the credible evidence and, if so, recommend appropriate action. The Assistant Secretary shall report the determination and any recommendations to the Board of Bar Examiners (Board) with notice to the applicant. The applicant shall have 14 days from the date of notice to submit to the Board a written response to the report and any recommendations of the Assistant Secretary.

(c) The Board may adopt the determination and recommendations of the Assistant Secretary at which point it shall so notify the applicant. Alternatively, the Board may, in its sole discretion, conduct a further investigation. Such further investigation may include interviews with the applicant or witnesses as the Board deems appropriate. If additional interviews are conducted they shall be conducted pursuant to the instructions of the Chair of the Board provided, however, that all interviews shall be attended by no fewer than three members of the Board as designated by the Chair as well as by the Assistant Secretary. Upon completion of any further investigation, the Board shall issue its own report and recommendations of appropriate action, with notice to the applicant.

(d) If the Board adopts a determination of the Assistant Secretary that the charges have been established by a preponderance of the evidence or issues its own determination to that

effect, the applicant shall have 30 days from the date of notice of that determination to file a petition with the Supreme Court requesting review of the determination and any of the recommended actions.

(e) If the applicant does not file a petition within the 30 days as provided by (d) above or if the Supreme Court denies a petition, the Board's determination and any recommendations shall become final. If the Supreme Court grants a petition, the matter will proceed before the Court in accordance with the directions of the Clerk of the Court. If the Supreme Court grants a petition, the Court shall finally dispose of the matter by order with or without opinion, as it deems appropriate.

(f) Prior to the issuance of a determination and recommendations by the Board, confidentiality shall be maintained to the extent possible. Upon a final determination that the charges have been established by a preponderance of the evidence, the Board shall so notify the Committee on Character and other jurisdictions to which the applicant has applied to take the examination.

(g) If allegations of impropriety arise after the bar applicant has been admitted to practice law in this state, the matter shall proceed as any other attorney disciplinary matter in accordance with R. 1:20.

[(a) All allegations of impropriety in the taking of a bar examination by a bar applicant who has not been admitted to practice law in this state shall be investigated and prosecuted by the Director, Office of Attorney Ethics in accordance with the applicable provisions of R. 1:20-1 et. seq., except that:

(1) the burden of proving the charges shall be by a preponderance of the credible evidence;

(2) the Supreme Court shall appoint a special master to make findings of fact and recommended conclusions;

(3) the special master's report shall be forwarded to the Board of Bar Examiners for appellate review on the record, including oral argument, before a three-member panel of the Board appointed by the Chair;

(4) the decision of the Board of Bar Examiners shall be submitted to the Supreme Court for such final action as it deems appropriate, including oral argument if directed by the Court; and

(5) issues of confidentiality, access to and dissemination of information in these cases shall be governed by R. 1:20-9.

(b) If such allegations of impropriety arise after the bar applicant has been admitted to the bar of this state, the matter shall proceed as any other attorney disciplinary matter in accordance with R. 1:20-1 et seq.]

Note: Adopted July 28, 2004 to be effective September 1, 2004; former text deleted and new text adopted August 1, 2016 to be effective September 1, 2016.

Rule 1:24. Application for Admission to the Practice of Law
[Bar Examinations; Qualifications for Admission to Examination]

1:24-1. Qualifications and Requirements for Application [Bar Examinations]

(a) Application and Fees. The Board shall, subject to the approval of the Supreme Court, establish deadlines for the filing of all application materials. Each applicant shall pay the required fees established by the Board, with the approval of the Supreme Court, to the Secretary, Board of Bar Examiners. [Time and Place. Two examinations shall be held annually at such times and places and of such duration as the Board shall determine, subject to the approval of the Supreme Court.]

(b) Fingerprints. Each applicant shall be fingerprinted with respect to each application in accordance with rules prescribed by the Board and shall pay the required fees established by the Board, with the approval of the Supreme Court. [Application; Fee; Fingerprints. Each applicant shall give written notice to the Board of the applicant's intention to sit for a bar examination. The Board shall, subject to the approval of the Supreme Court, establish deadlines for the filing of notices of intention and all application materials. Each applicant shall be fingerprinted prior to taking the examination in accordance with rules prescribed by the Board and shall pay the required fees established by the Board, with the approval of the Supreme Court, to the secretary.]

(c) Age. Each applicant shall provide satisfactory evidence that the applicant is more than 18 years of age.

(d) Education. Each applicant shall provide, in a manner prescribed by the Board, certification by a duly authorized officer of the applicant's law school that it is approved by the

American Bar Association and that it has awarded the applicant a Juris Doctor degree or its equivalent.

(e) Admission in Other Jurisdictions. Each applicant shall provide satisfactory evidence that the applicant is a member of the bar in good standing in every other jurisdiction which has ever admitted the applicant to practice.

Note: Source-R.R. 1:19-2(a) (c), 1:19-4. Paragraph (b) amended April 2, 1973 to be effective immediately; paragraph (c) adopted July 24, 1978 to be effective September 11, 1978; paragraphs (b) and (c) amended October 18, 1979 to be effective immediately; paragraph (c) deleted September 21, 1981 to be effective immediately; paragraph (b) caption and text amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended March 15, 1989, to be effective immediately; caption of Rule 1:24 amended, caption amended, paragraphs (a) and (b) captions and text amended, and new paragraphs (c), (d), and (e) adopted August 1, 2016 to be effective September 1, 2016.

1:24-2. Application for Admission by Bar Examination [Qualification for Admission to Examination]

Applicants may apply for admission to the bar of this State by bar examination administered in New Jersey. [No person shall be admitted to the bar examination without first presenting to the Board, in the manner prescribed by its rules;]

(a) Time and Place. Two examinations shall be held annually at such times and places and of such duration as the Board shall determine, subject to the approval of the Supreme Court. Effective with the February 2017 bar examination administration, New Jersey will administer the Uniform Bar Examination. [Satisfactory evidence that the applicant is more than 18 years of age;]

(b) Other Application Requirements. An applicant seeking admission by bar examination must meet all other requirements set forth in Rule 1:24-1 above. [Certification by a duly authorized officer of the applicant's law school that it is approved by the American Bar Association and that it has awarded the applicant a Juris Doctor degree or its equivalent.]

[(c) Satisfactory evidence that the applicant is a member of the bar in good standing in every other jurisdiction which has ever admitted the applicant to practice.]

Note: Source-R.R. 1:20-1, 1:20-1A, 1:20-2(a), 1:20-3, 1:20-4, 1:22-2. Paragraph (b) amended and paragraph (e) adopted April 2, 1973 to be effective immediately; paragraph (a) amended September 19, 1973 to be effective immediately; former paragraph (b) deleted, former paragraphs (c), (d) and (e) redesignated (b), (c) and (d) and paragraph (d) amended July 24, 1978to be effective September 11, 1978; paragraph (d) deleted September 21, 1981 to be effective immediately; introductory paragraph and paragraphs (a), (b) and (c) amended July 13, 1994; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; caption amended,

paragraphs (a) and (b) captions and text amended, and paragraph (c) deleted August 1, 2016 to be effective September 1, 2016.

1:24-3. Application for Admission by Uniform Bar Examination Score Transfer

Applicants may apply for admission to the bar of this State using a Uniform Bar Examination (UBE) score transferred from another UBE jurisdiction provided that:

(a) the score attained on the UBE examination meets or exceeds the minimum passing score established by the Supreme Court;

(b) no more than thirty-six (36) months have passed since the applicant sat for the UBE examination for which the qualifying UBE score was attained; and

(c) the applicant meets all other application requirements in Rule 1:24-1 above.

Note: Adopted August 1, 2016 to be effective September 1, 2016.

1:24-4. Application for Admission by Motion

Applicants may apply for admission to the bar of this State by motion to the Supreme Court. To qualify for application by motion, applicants must:

(a) have practiced law for five of the last seven years in another United States jurisdiction;

(b) have previously sat for and passed the bar examination in another United States jurisdiction;

(c) be admitted in a United States jurisdiction that would extend a reciprocal license by motion to New Jersey lawyers;

(d) have completed a course on New Jersey ethics and professionalism; and

(e) meet all other application requirements in Rule 1:24-1 above.

Note: Adopted August 1, 2016 to be effective September 1, 2016.

1:27-1. Plenary Admission

(a) Qualification for Licensure. No person shall be admitted to the bar of this State unless the following shall first have successfully occurred in a manner prescribed by the rules of the Board of Bar Examiners:

(1) Qualification, pursuant to Rule 1:24, by passage of the bar examination administered in New Jersey, by application to transfer an acceptable Uniform Bar Examination (UBE) score, or by motion to the Supreme Court [Passage of the bar examination];

(2) Certification of good character by the Committee on Character, pursuant to Rule 1:25 and the regulations of that body; and

(3) Attainment of a qualifying score on the Multi-State Professional Responsibility Examination or passage of an approved course on professional ethics given by an American Bar Association-accredited law school.

(b) Report to Supreme Court. ... no change

(c) Roll of Attorneys; Oath Card. ... no change

(d) Time Limit on Admission. ... no change

(e) Registration Statement. ... no change

Note: Source-R.R. 1:22-1(a) (b); paragraph (b) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended and paragraph (d) adopted July 24, 1978 to be effective September 11, 1978; caption amended and paragraph (d) deleted September 21, 1981 to be effective immediately; caption amended and new paragraph (a) adopted, former paragraph (a) amended and redesignated (b) and former paragraphs (b) and (c) deleted September 21, 1981 to be effective February 1, 1982; paragraph (b) amended January 31, 1984 to be effective February 15, 1984; paragraph (b) amended July 26, 1984 to be effective September 10, 1984; paragraph (a)(4) deleted November 5, 1986 to be effective January 1, 1987; paragraph (b) caption and text

amended and last sentence redesignated paragraph (c) and caption adopted November 7, 1988 to be effective January 2, 1989; paragraph (b) amended and redesignated as paragraphs (b) and (d), former paragraph (c) amended and redesignated as paragraph (e), and new paragraph (c) adopted July 10, 1998 to be effective September 1, 1998; paragraph (d) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended November 8, 2004 to be effective immediately; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

Rule 1:27-2A. Foreign In-House Counsel Registration

To be eligible to practice foreign law in New Jersey as Foreign In-House Counsel, a foreign lawyer (licensed outside the United States) must comply with the provisions of this Rule. Registration approved by the Supreme Court pursuant to this Rule shall authorize the foreign lawyer to practice solely for the designated employer in New Jersey. Except as specifically limited herein, the rules, rights and privileges governing the practice of law in this State shall be applicable to a foreign lawyer registered under this Rule.

(a) Foreign In-House Counsel Defined. Foreign In-House Counsel is a foreign lawyer who is employed in New Jersey for a corporation, a partnership, association, or other legal entity (taken together with its respective parents, subsidiaries, and affiliates) authorized to transact business in this State that is not itself engaged in the practice of law or the rendering of legal services outside such organization, whether for a fee or otherwise, and does not charge or collect a fee for the representation or advice other than to entities comprising such organization. The hiring company will evaluate and verify the lawyer's foreign credentials when hiring him or her. A lawyer admitted in a foreign jurisdiction may provide legal services through an office or other systematic and continuous presence in this jurisdiction when the services are provided to the lawyer's employer, do not require pro hac vice admission, and do not involve advice on United States or New Jersey law.

(b) Requirements. All applications under this Rule are to be submitted to the Secretary of the Board of Bar Examiners. A Foreign In-House Counsel who is admitted to practice law in a foreign country may register to advise on foreign law in this State under the following conditions:

(i) The applicant certifies that he or she is a member in good standing of the bar of the highest court of each foreign and United States jurisdiction in which the applicant is licensed to practice law and provides a certificate of good standing from each jurisdiction in which the applicant is admitted;

(ii) The applicant certifies that: (a) no disciplinary proceedings are pending against the applicant and that no discipline has previously been imposed on the applicant in any foreign country or United States jurisdiction; or (b) if discipline has been previously imposed, the certification shall state the date, jurisdiction, nature of the violation, and the sanction imposed. If proceedings are pending, the certification shall specify the jurisdiction, the charges, and the anticipated time of their disposition. A lawyer registered under this Rule shall have the continuing obligation during the period of such registration promptly to inform the Director of the Office of Attorney Ethics pursuant to Rule 1:20-14(a) of a disposition made of disciplinary proceedings. Any questions concerning the character or fitness of a lawyer may be referred by the Secretary of the Board of Bar Examiners to the Supreme Court Committee on Character for review and recommendation (Rule 1:25). The submission of an application for registration as Foreign In-House Counsel shall be a consent to such investigation as the Secretary of the Board of Bar Examiners deems appropriate;

(iii) The applicant certifies that he or she performs foreign legal services in this State solely for the identified employer, or that he or she performs foreign legal services in this State solely for the identified employer and its constituents (employees, directors, officers, members, partners, shareholders) in respect or the same proceeding of claim as the employer, provided that the performance of such services is consistent with RPC 1.13 and RPC 1.7;

(iv) The applicant certifies that he or she will not advise the employer company on United States law; and

(v) The employer certifies through an officer, director or general counsel that the applicant is employed as a lawyer for said employer, that the applicant is of good moral character, and that the nature of the employment conforms to the requirements of this Rule.

(c) Compliance. A lawyer registered pursuant to this Rule shall comply with the annual assessments pursuant to Rule 1:20-1(b) (Disciplinary Oversight Committee), Rule 1:28-2 (New Jersey Lawyers' Fund for Client Protection), and Rule 1:28B-1(e) (Lawyers Assistance Program).

(d) Limitation. Foreign In-House Counsel shall not appear as Attorney of Record for his or her employer, its parent, subsidiary, affiliated entities or any of their constituents in any case or matter pending before the courts of this State.

(e) Duration. The registration to practice foreign law in this State shall expire if such lawyer is admitted to the Bar of this State under any other rule of this Court, or if such lawyer ceases to be an employee for the employer or its parent, subsidiary, or affiliated entities, listed on such lawyer's application, whichever shall first occur; provided, however, that if such lawyer, within ninety days of ceasing to be an employee for the employer or its parent, subsidiary, or affiliated entities listed on such lawyer's application, becomes employed by another employer for which such lawyer shall perform legal services as Foreign In-House Counsel, such lawyer may maintain his or her registration under this Rule by promptly filing with the Secretary to the

Board of Bar Examiners a certification to such effect, stating the date on which his or her prior employment ceased and his/her new employment commenced, identifying his or her new employer and reaffirming that he or she shall not provide legal services, in this State, to any individual or entity other than as described in paragraphs (b)(iii). The lawyer shall also file a certification of the new employer as described in paragraph (b)(iv). In the event that the employment of a lawyer registered under this Rule shall cease with no subsequent employment by a successor employer within ninety days, such lawyer shall promptly file with the Secretary to the Board of Bar Examiners a statement to such effect, stating the date that such employment ceased.

(f) Fee. Each applicant for registration as Foreign In-House Counsel shall pay the required fees as established by the Board of Bar Examiners and approved by the Supreme Court.

(g) Pro Bono. A foreign lawyer registered as Foreign In-House Counsel pursuant to this rule may not provide pro bono services in this state.

(h) Not Admitted. Foreign lawyers registered pursuant to this rule are not, and should not represent themselves to be, members of the bar of this State.

Note: Adopted August 1, 2016 to be effective September 1, 2016.

1:38-7. Confidential Personal Identifiers

(a) ... no change

(b) ... no change

(c) Compliance.

(1) ... no change

(2) ... no change

(3) In all criminal matters, the judge shall inform both parties at the time of the defendant's arraignment status conference that confidential personal identifiers must be redacted from any documents submitted to the court as provided in R. 1:38-7(b) and R. [3:9-1(c)] 3:9-1(b).

(d) ... no change

(e) ... no change

(f) ... no change

Note: New Rule 1:38-7 adopted July 16, 2009 to be effective September 1, 2009; paragraph (e) amended September 22, 2009 to be effective immediately; paragraphs (d) and (f) amended October 18, 2011 to be effective immediately; new paragraph (g) added October 8, 2013 to be effective immediately; paragraph (d) amended April 21, 2015 to be effective May 1, 2015; paragraph (c)(3) amended August 1, 2016 to be effective September 1, 2016.

2:6-2. Contents of Appellant's Brief

(a) Formal Brief. Except as otherwise provided by *R.* 2:6-4(c)(1) (statement in lieu of brief), by *R.* 2:9-11 (sentencing appeals), and by paragraph (b) of this rule, the brief of the appellant shall contain the following material, under distinctive titles, arranged in the following order:

(1) A table of contents, including the point headings to be argued. It is mandatory that [any point not presented below be so indicated by including in parenthesis a statement to that effect in the point heading.] for every point, the appellant shall include in parentheses at the end of the point heading the place in the record where the opinion or ruling in question is located or if the issue was not raised below a statement indicating that the issue was not raised below.

(2) A table of judgments, orders and rulings being appealed. This table shall include a listing of the places in the record where the following items are located:

(A) The trial court's judgment(s), order(s), and ruling(s) being appealed, or the administrative agency's final decision(s);

(B) The trial judge's written or oral opinion;

(C) Intermediate decisions, if any, pertinent to the appeal. Such intermediate decisions include such items as planning board resolutions, initial decisions of the administrative law judge, and appeal tribunal decisions.

[(2)](3) A table of citations of cases, alphabetically arranged, of statutes and rules and of other authorities.

[(3)](4) A concise procedural history including a statement of the nature of the proceedings and a reference to the judgment, order, decision, action or rule appealed from or sought to be reviewed or enforced. The appendix page of each document referred to shall be

stated. The plaintiff and defendant shall be referred to as such and shall not, except where necessary, be referred to as appellant and respondent.

[(4)](5) A concise statement of the facts material to the issues on appeal supported by references to the appendix and transcript. The statement shall be in the form of a narrative chronological summary incorporating all pertinent evidence and shall not be a summary of all of the evidence adduced at trial, witness by witness.

[(5)](6) The legal argument for the appellant, which shall be divided, under appropriate point headings, distinctively printed or typed, into as many parts as there are points to be argued. For every point, the appellant shall include in parentheses at the end of the point heading the place in the record where the opinion or ruling in question is located or if the issue was not raised below a statement indicating that the issue was not raised below. New Jersey decisions shall be cited to the official New Jersey reports by volume number but if not officially reported that fact shall be stated and unofficial citation made. All other state court decisions shall be cited to the National Reporter System, if reported therein and, if not, to the official report. In the citation of all cases the court and year shall be indicated in parentheses except that the year alone shall be given in citing the official reports of the United States Supreme Court, the Supreme Court of New Jersey, and the highest court of any other jurisdiction.

[(6)](7) In addition to the foregoing, each brief may include an optional preliminary statement for the purpose of providing a concise overview of the case. The preliminary statement shall not exceed three pages and may not include footnotes or, to the extent practicable, citations.

(b) Letter Brief. In lieu of filing a formal brief in accordance with paragraph (a) of this rule and except as otherwise provided by *R.* 2:9-11 (sentencing appeals), the appellant may

file a letter brief. Letter briefs shall not exceed 20 pages and shall conform with the requirements of subparagraphs (1), (2), [(3)], (4), [and] (5) and (6) of paragraph (a). As to any point not presented below a statement to that effect shall be included in parenthesis in the point heading. No cover need be annexed provided that the information required by *R.* 2:6-6 is included in the heading of the letter.

(c) ...no change.

(d) ...no change.

Note: Source — *R.R.* 1:7-1(a) (b) (d) (e) (g); amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended, former paragraphs (a) (b) (c) and (e) redesignated subparagraphs (1) (2) (3) and (5), subparagraph (4) and paragraphs (b) and (c) adopted July 24, 1978 to be effective September 11, 1978; paragraph (b) amended January 10, 1979 to be effective immediately; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(5) amended November 1, 1985 to be effective January 2, 1986; paragraphs (a) and (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; new paragraph (d) added July 14, 1992 to be effective September 1, 1992; paragraph (a)(5) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(6) added July 12, 2002 to be effective September 3, 2002; paragraph (a)(1) amended, new paragraph (a)(2) adopted and former paragraphs (a)(2) through (a)(4) renumbered as (a)(3) through (a)(5) respectively, former paragraph (a)(5) amended and renumbered as (a)(6), former paragraph (a)(6) renumbered as (a)(7), and paragraph (b) amended August 1, 2016 to be effective September 1, 2016.

2:6-11. Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) Letter to Court After Brief Filed. No briefs other than those [herein specified] permitted in paragraphs (a) and (b) of this rule shall be filed or served without leave of court. A party may, however, without leave, serve and file a letter calling to the court's attention, with a brief indication of their significance, relevant [cases decided] published opinions issued, or legislation enacted or rules, regulations and ordinances adopted, subsequent to the filing of the brief. Unpublished opinions shall not be submitted pursuant to this rule, unless they are of a type that the reviewing court is permitted under *R.* 1:36-3 to cite in its own opinions. Any other party to the appeal may, without leave, file and serve a [short] letter in response thereto within five days after receipt thereof. The initial letter and subsequent responses shall not exceed two pages in length without leave.

(e) ...no change.

(f) ...no change.

(g) ...no change.

Note: Source — *R.R.* 1:7-12(a)(c), 1:10-14(b), 2:7-3. Paragraph (b) amended by order of September 5, 1969 effective September 8, 1969; paragraph (a) amended July 7, 1971 to be effective September 13, 1971; caption and paragraphs (a) and (b) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended May 8, 1975 to be effective immediately; paragraphs (c), (d) and (e) adopted July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and titles of paragraphs (c)(d) and (e) added November 2, 1987 to be effective January 1, 1988; paragraphs (a) and (b) amended July 14, 1992 to be effective September 1, 1992; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 28, 2004 to be effective September 1, 2004; paragraph (f) adopted July 16, 2009 to be effective September 1,

2009; paragraph (f) caption and text amended July 9, 2013 to be effective September 1, 2013; new paragraph (g) adopted July 22, 2014 to be effective September 1, 2014; paragraph (d) amended August 1, 2016 to be effective September 1, 2016.

2:12-9. Where Party Appeals and at the Same Time Makes Application for Certification

A party who seeks certification to review a final judgment of the Appellate Division and also appeals therefrom shall state in the petition for certification all questions intended to be raised on appeal. Except in the case of an appeal as of right pursuant to *R.* 2:2-1(a)(2), a [The] denial of certification shall be deemed to be a summary dismissal of the appeal, and the Clerk of the Supreme Court shall forthwith enter an order dismissing the appeal, unless the Supreme Court otherwise orders.

Note: Amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

3:6-2. Objections to Grand Jury and Grand Jurors

The prosecuting attorney or a defendant, after being held to answer a complaint charging an indictable offense or after indictment, may, in writing, challenge the array of the grand jury which has returned or is expected to return the indictment on the ground that it was not selected, drawn or summoned according to law, and may challenge an individual juror on the ground that the juror is not legally qualified. All such challenges shall be made within 30 days of the service of the complaint or no later than at the Initial Case Disposition Conference [(ICDC)] that is scheduled pursuant to R. 3:9-1(e). For good cause shown, the court may allow the motion to be brought at any time. Such challenges shall be tried by a judge designated by the Assignment Judge. If a defendant has already been indicted, such challenges may be the basis of a motion to dismiss the indictment.

Note: Source-R.R. 3:3-2(a) (b); amended July 13, 1994 to be effective January 1, 1995; amended April 12, 2016 to be effective May 20, 2016; amended August 1, 2016 to be effective September 1, 2016.

3:9-1. Post-Indictment Procedure; Arraignment; Meet and Confer; Plea Offer; Conferences; Pretrial Hearings; Pretrial Conference

(a) Post-Indictment Procedure. ... no change to text

(b) Arraignment; In Open Court.

(1) The arraignment shall be conducted in open court no later than 14 days after the return or unsealing of the indictment. If the defendant is unrepresented at arraignment, upon completion of an application for services of the Public Defender, the court may assign the Office of the Public Defender to represent the defendant for purposes of the arraignment.

(2) At the arraignment, the judge shall (i) advise the defendant of the substance of the charge; (ii) confirm that if the defendant is represented by the public defender, discovery has been obtained, or if the defendant has retained private counsel, discovery has been requested pursuant to R. 3:13-3(b)(1), or counsel has affirmatively stated that discovery will not be requested; (iii) confirm that the defendant has reviewed with counsel the indictment and, if obtained, the discovery; (iv) if so requested, allow the defendant to apply for pretrial intervention; and (v) inform all parties of their obligation to redact confidential personal identifiers from any documents submitted to the court in accordance with Rule 1:38-7(b).

(3) The defendant shall enter a plea to the charges. If the plea is not guilty, counsel shall report on the results of plea negotiations [,] and such other matters[,] discussed by the parties which shall promote a fair and expeditious disposition of the case. Unless otherwise instructed by the court, at the arraignment counsel shall advise the court of their intention to make motions pursuant to R. 3:10-2(a). [Absent good cause, all motions shall be filed with the court with the brief by the scheduled Initial Case Disposition Conference (ICDC) and unless the opposing party

bears the burden. The parties shall meet and confer on motions, and other matters, as instructed by the court. Each status conference shall be held in open court with the defendant present. If the defendant is unrepresented at arraignment, upon completion of an application for services of the Public Defender, the court may assign the Office of the Public Defender to represent the defendant for purposes of the arraignment.]

(c) Meet and Confer Requirement; Plea Offer. Prior to the Initial Case Disposition Conference [(ICDC)], the prosecutor and the defense attorney shall discuss the case, including any plea offer and any outstanding or anticipated motions, and shall report thereon at the Initial Case Disposition Conference [(ICDC)]. The parties shall discuss any other matters as instructed by the court. The prosecutor and defense counsel shall also confer and attempt to reach agreement on any discovery issues, including any issues pertaining to discovery provided through the use of CD, DVD, e-mail, internet or other electronic means. Any plea offer to be made by the prosecutor shall be in writing and shall be included in the post-indictment discovery package.

[(d) Pretrial Hearings. Hearings to resolve issues relating to the admissibility of statements by defendant, pretrial identifications of defendant, sound recordings, and motions to suppress shall be held prior to the Pretrial Conference, unless upon request of the movant at the time the motion is filed, the court orders that the motion be reserved for the time of trial. Upon a showing of good cause, hearings as to admissibility of other evidence may also be held pretrial.]

(d) [(e)] Disposition Conferences. After arraignment, the court shall conduct the Initial Case Disposition Conference [(ICDC)], the Final Case Disposition Conference [(FCDC)] and the Pretrial Conference, as described in paragraph (f) of this rule. At the Initial Case Disposition Conference [(ICDC)], if not filed consistent with R. 3:10-2(a) [set before], the court shall set date(s) for submission of briefs, the hearing of pretrial motions, and schedule a [status conference] Final Case Disposition Conference, if necessary, according to the differentiated needs of each case. For good cause, prior to the Pretrial Conference, the court may schedule a Discretionary Case Disposition Conference [(DCDC)]. In advance of any [the] scheduled [status] disposition conference, the prosecutor and the defense attorney shall discuss the case, including any plea offer and any outstanding or anticipated motions, and shall report thereon at the [status] conference. The prosecutor and defense counsel shall also confer and attempt to reach an agreement as to any discovery issues, including any issues pertaining to discovery provided through the use of CD, DVD, email, internet or other electronic means. Any plea offer to be made by the prosecutor shall be in writing and forwarded to the defendant's attorney. At the conclusion of [the status conference] either the Final Case Disposition Conference or the granted Discretionary Case Disposition Conference, the court may in its discretion set a trial date, schedule any necessary pretrial hearings, or schedule another [status] conference. Each [status] of these conferences shall be held in open court with the defendant present.

(e)[(d)] Pretrial Hearings. Hearings to resolve issues relating to the admissibility of statements by defendant, pretrial identifications of defendant, sound recordings, and motions to suppress shall [, unless otherwise ordered by the court,] be held prior to the Pretrial Conference [and], unless upon request of the movant at the time the motion is filed, the court orders that the

motion be reserved for the time of trial. [upon] Upon a showing of good cause, hearings as to admissibility of other evidence may also be held pretrial.

(f) Pretrial Conference. If the court determines that discovery is complete; that all motions have been decided or scheduled in accordance with paragraph [(d)] (e); and that all reasonable efforts to dispose of the case without trial have been made and it appears that further negotiations or an additional [status] conference will not result in disposition of the case, or progress toward disposition of the case, the judge shall conduct a pretrial conference. The conference shall be conducted in open court with the prosecutor, defense counsel and the defendant present. Unless objected to by a party, the court shall ask the prosecutor to describe, without prejudice, the case including the salient facts and anticipated proofs and shall address the defendant to determine that the defendant understands: (1) the State's final plea offer, if one exists; (2) the sentencing exposure for the offenses charged, if convicted; (3) that ordinarily a negotiated plea should not be accepted after the pretrial conference and a trial date has been set; (4) the nature, meaning and consequences of the fact that a negotiated plea may not be accepted after the pretrial conference has been conducted and a trial date has been set; and (5) that the defendant has a right to reject the plea offer and go to trial and that if the defendant goes to trial the State must prove the case beyond a reasonable doubt. If the case is not otherwise disposed of, a pretrial memorandum shall be prepared in a form prescribed by the Administrative Director of the Courts. The pretrial memorandum shall be reviewed on the record with counsel and the defendant present and shall be signed by the judge who, in consultation with counsel, shall fix the trial date. No admissions made by the defendant or defendant's attorney at the conference shall be used against the defendant unless the admissions are reduced to writing and signed by the defendant and defendant's attorney. The court shall also inform the defendant of the right to

be present at trial, the trial date set, and the consequences of a failure to appear for trial, including the possibility that the trial will take place in defendant's absence.

NOTE: Source-R.R. 3:5-1. Paragraph (b) deleted and new paragraph (b) adopted July 7, 1971 to be effective September 13, 1971; paragraph (b) amended July 29, 1977 to be effective September 6, 1977; paragraph (a) amended and paragraph (b) deleted July 21, 1980 to be effective September 8, 1980; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; first three sentences of former paragraph (a) amended and redesignated paragraph (c), last sentence of former paragraph (a) amended and moved to new paragraph (e), new paragraphs (a), (b), (d) and (e) adopted July 13, 1994 to be effective January 1, 1995; paragraph (e) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 16, 2009 to be effective September 1, 2009; caption, paragraph (a), paragraph (b) caption and text, and paragraph (c) amended December 4, 2012 to be effective January 1, 2013; caption amended, paragraph (a) caption and text amended, former paragraph (b) amended and redesignated as paragraph (c), former paragraph (c) caption and text amended and redesignated as paragraph (b), paragraph (d) amended, new paragraph (e) added, and former paragraph (e) amended and redesignated as paragraph (f) April 12, 2016 to be effective May 20, 2016; paragraphs (b) and (c) amended, former paragraph (d) amended and redesignated as paragraph (e), former paragraph (e) caption and text amended and redesignated as paragraph (d), and paragraph (f) amended August 1, 2016 to be effective September 1, 2016.

3:10-2. Time and Manner of Making Motion; Hearing on Motion

(a) Time and Manner of Making Motion. Unless otherwise required by law, pre-indictment motions shall be heard by the judge to whom the case is assigned. If the case has not been assigned to a judge pre-indictment motions shall be made to the Criminal Presiding Judge or designee, except as otherwise provided by law. Unless otherwise required by law, or ordered by the Criminal Presiding Judge, post-indictment motions shall be made to the judge to whom the indictment has been assigned. Unless otherwise instructed by the court, at the arraignment counsel shall advise the court of their intention to make motions. Absent good cause, all motions shall be filed with the court and be accompanied by a [with the] brief by the scheduled Initial Case Disposition Conference [(ICDC)]. [and unless the opposing] If, however, the party opposing the motion bears the burden of proof, the time for submitting the brief is at the discretion of the court. The dates for briefing and for the hearing of such motions shall be set by the court either before or at the Initial Case Disposition Conference [(ICDC)]. Unless otherwise ordered by the court, motions and [status] conferences shall be scheduled on the same day. The court may for good cause shown and in the interest of justice permit additional motions to be made thereafter. A motion shall include all defenses and objections then available to the defendant.

(b) Hearing on Motion. ... no change

(c) Defenses and Objections Which Must be Raised Before Trial. ... no change

(d) Defenses and Objections Which May Only be Raised Before or After Trial. ... no change

(e) Lack of Jurisdiction. ... no change

NOTE: Source-R.R. 3:5-5(b)(2)(3) and (4); caption amended, former Rules 3:10-2, -3, -4, -5 and -6 amended, redesignated and incorporated into R. 3:10-2 as paragraphs (c), (d), (e), (a), and (b) July 13, 1994 to be effective January 1, 1995; paragraph (a) amended April 12, 2016 to be effective May 20, 2016; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

3:12-1. Notice Under Specific Criminal Code Provisions

A defendant shall serve written notice on the prosecutor if the defendant intends to rely on any of the following sections of the Code of Criminal Justice: Ignorance or Mistake, 2C:2-4(c); Accomplice: Renunciation Terminating Complicity, 2C:2-6(e)(3); Intoxication, 2C:2-8(d); Duress, 2C:2-9(a); Entrapment, 2C:2-12(b); General Principles of Justification, 2C:3-1 to 2C:3-11; Insanity, 2C:4-1; Lack of Requisite State of Mind, 2C:4-2; Criminal Attempt (renunciation of criminal purpose), 2C:5-1(d); Conspiracy (renunciation of criminal purpose), 2C:5-2(e); Murder (affirmative defense, felony murder), 2C:11-3(a)(3); Criminal Restraint, 2C:13-2(b); Theft by Extortion, 2C:20-5; Perjury (retraction), 2C:28-1(d); False Swearing (retraction), 2C:28-2(b); Controlled Dangerous Substances Near or On School Property, 2C:35-7; and Distributing, Dispensing or Possessing Controlled Substances Within 500 Feet of Public Housing Facilities, Parks or Buildings, 2C:35-7.1.

No later than seven days before the Initial Case Disposition Conference [(ICDC)] that is scheduled pursuant to R. 3:9-1(e) the defendant shall serve on the prosecutor a notice of intention to claim any of the defenses listed herein; and if the defendant requests or has received discovery pursuant to R. 3:13-3(b)(1), the defendant shall, pursuant to R. 3:13-3(b)(2), furnish the prosecutor with discovery pertaining to such defenses at the time the notice is served. The prosecutor shall, within 14 days after receipt of such discovery, comply with R. 3:13-3(b)(1) and (f) with respect to any defense for which the prosecutor has received notice.

For good cause shown the court may extend the time of service of any of the foregoing, or make such other orders as the interest of justice requires. If a party fails to comply with this Rule, the court may take such action as the interest of justice requires. The action taken may

include refusing to allow the party in default to present witnesses in support or in opposition of that defense at the trial or to allow the granting of an adjournment or delay during trial as the interest of justice demands.

NOTE: Source-R.R. 3:5-9A. Former Rule 3:12 amended August 28, 1979 to be effective September 1, 1979; main caption amended and former Rules 3:12 and 3:12A amended, combined and redesignated as *Rule 3:12-1*, July 13, 1994, second paragraph amended December 9, 1994, to be effective January 1, 1995; amended July 12, 2002 to be effective September 3, 2002; amended December 4, 2012 to be effective January 1, 2013; amended April 12, 2016 to be effective May 20, 2016; amended August 1, 2016 to be effective September 1, 2016.

3:13-3. Discovery and Inspection

(a) ... no change

(b) ... no change

(c) Motions for Discovery. No motion for discovery shall be filed unless the moving party certifies that the prosecutor and defense counsel have satisfied the discovery meet and confer requirements of [R. 3:9-1(b)] R. 3:9-1(c).

(d) ... no change

(e) ... no change

(f) ... no change

Note: Source-R.R. 3:5-11(a)(b)(c)(d)(e)(f)(g)(h). Paragraphs (b)(c)(f) and (h) deleted; paragraph (a) amended and paragraphs (d)(e)(g) and (i) amended and redesignated June 29, 1973 to be effective September 10, 1973. Paragraph (b) amended July 17, 1975 to be effective September 8, 1975; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraphs (a) and (b) amended July 22, 1983 to be effective September 12, 1983; new paragraphs (a) and (b) added, former paragraphs (a), (b), (c), (d) and (f) amended and redesignated paragraphs (c), (d), (e), (f) and (g) respectively and former paragraph (e) deleted July 13, 1994 to be effective January 1, 1995; Rule redesignation of July 13, 1994 eliminated December 9, 1994, to be effective January 1, 1995; paragraphs (c)(6) and (d)(3) amended June 15, 2007 to be effective September 1, 2007; subparagraph (f)(1) amended July 21, 2011 to be effective September 1, 2011; new subparagraph (c)(10) adopted July 19, 2012 to be effective September 4, 2012; paragraph (a) amended, paragraph (b) text deleted, paragraph (c) amended and renumbered as paragraph (b)(1), paragraph (d) amended and renumbered as paragraph (b)(2), new paragraphs (b)(3) and (c) adopted, paragraphs (e) and (f) renumbered as paragraphs (d) and (e), paragraph (g) amended and renumbered as paragraph (f) December 4, 2012 to be effective January 1, 2013; paragraph (b)(1)(I) amended July 27, 2015 to be effective September 1, 2015; paragraph (b) amended April 12, 2016 to be effective May 20, 2016; paragraph (c) amended August 1, 2016 to be effective September 1, 2106.

4:3-2. Venue in the Superior Court

(a) ...no change.

(b) [Corporate Parties] Business Entity. For purposes of this rule, a [corporation] 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) ...no change.

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) caption and text amended August 1, 2016 to be effective September 1, 2016.

4:5-4. Affirmative Defenses; Misdesignation of Defense and Counterclaim

A responsive pleading shall set forth specifically and separately a statement of facts constituting an avoidance or affirmative defense [such as] including but not limited to accord and satisfaction, arbitration and award, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, frustration of purpose, illegality, impossibility of performance, injury by fellow servant, laches, license, payment, release, *res judicata*, statute of frauds, statute of limitations, and waiver. If a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court, on terms if the interest of justice requires, shall treat the pleading as if there had been a proper designation.

Note: Source — *R.R.* 4:8-3; amended August 1, 2016 to be effective September 1, 2016.

4:10-2. Scope of Discovery; Treating Physician

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(a) In General. ... no change

(b) Insurance Agreements. ... no change

(c) Trial Preparation; Materials. ... no change

(d) Trial Preparation; Experts. ... no change

(e) Claims of Privilege or Protection of Trial Preparation Materials. ... no change

(f) Electronic Information.

(1) Metadata in Electronic Documents. A party may request metadata in electronic documents. When parties request metadata in discovery, they should consult and seek agreement regarding the scope of the request and the format of electronic documents to be produced. Absent an agreement between the parties, on a motion to compel discovery or for a protective order, the party from whom discovery is sought shall demonstrate that the request presents undue burden or costs. Judges should consider the limitations of R. 4:10-2(g) when reviewing such motions.

(2) Claims that Electronically Stored Information is not Reasonably Accessible. A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On a motion to compel discovery or for a protective order, the party from whom discovery is sought shall demonstrate that the information is not reasonably accessible because of undue burden or

cost. If that showing is made, the court nevertheless may order discovery from such sources if the requesting party establishes good cause, considering the limitations of R. 4:10-2(g). The court may specify conditions for the discovery.

(g) Limitation on Frequency of Discovery. ... no change

Note: Source — R.R. 4:16-2, 4:23-1, 4:23-9, 5:5-1(f). Amended July 14, 1972 to be effective September 5, 1972 (paragraphs (d)(1) and (2) formerly in R. 4:17-1); paragraph (d)(2) amended July 14, 1992 to be effective September 1, 1992; paragraphs (c) and (d)(1) and (3) amended July 13, 1994 to be effective September 1, 1994; paragraph (d)(1) amended June 28, 1996 to be effective September 1, 1996; paragraph (e) adopted July 10, 1998 to be effective September 1, 1998; paragraph (d)(1) amended July 12, 2002 to be effective September 3, 2002; corrective amendments to paragraph (d)(1) adopted September 9, 2002 to be effective immediately; caption amended, paragraphs (a), (c), and (e) amended, and new paragraphs (d)(4), (f), and (g) adopted July 27, 2006 to be effective September 1, 2006; subparagraph (d)(1) amended July 19, 2012 to be effective September 4, 2012; new caption added to paragraph (f), caption and text of former subparagraph (f) redesignated as subparagraph (f)(2), and new subparagraph (f)(1) adopted August 1, 2016 to be effective September 1, 2016.

Official Comment Regarding Paragraph (f)(1) (August 1, 2016)

"Metadata" is embedded information in electronic documents that is generally hidden from view in a printed copy of a document. It is generated when documents are created or revised on a computer. Metadata may reflect such information as the author of a document, the date or dates on which the document was revised, tracked revisions to the document, and comments inserted in the margins. It may also reflect information necessary to access, understand, search, and display the contents of documents created in spreadsheet, database, and similar applications.

The amendment to this Rule regarding metadata in electronic documents does not affect the general rule that information protected by privilege is not subject to discovery.

4:11-4. Testimony for Use in Foreign Jurisdictions

(a) Testimony for Use in the United States or Another Country. Whenever the deposition of a person is to be taken in this State pursuant to the laws of the United States or another country for use in connection with proceedings there, the Superior Court may, on ex parte petition, order the issuance of a subpoena to such person in accordance with *R.* 4:14-7. The petition shall be captioned in the Superior Court, Law Division [,] and shall be designated "petition pursuant to *R.* 4:11-4(a)" and shall be filed [in accordance with *R.* 1:5-6(b)] with the Clerk of the Superior Court. It shall be treated as a miscellaneous matter and the fee charged shall be pursuant to [*N.J.S.A.* 22A:2-7] *R.* 1:43.

(b) Testimony for Use in a Foreign State.

(1) Submission of Foreign Subpoena. Whenever the deposition of a person is to be taken in this State pursuant to the laws of a foreign state for use in connection with proceedings there, an out-of-state attorney or party may submit a foreign subpoena along with a New Jersey subpoena, in the name of the Clerk of the Superior Court, which complies with subparagraph (3) to an attorney authorized to practice in this State or to the [clerk of the court in the county in which discovery is sought to be conducted in this State] Clerk of the Superior Court or designee. The foreign subpoena must include the following phrase below the case number: "For the Issuance of a New Jersey Subpoena under New Jersey Rule 4:11-4 (b)" and shall be filed [in accordance with *R.* 1:5-6(b)] with the Clerk of the Superior Court. It shall be treated as a miscellaneous matter and the fee charged shall be pursuant to [*N.J.S.A.* 22A:2-7] *R.* 1:43.

(2) ...no change.

(3) ...no change.

(4) Service of Subpoena. A subpoena issued by an attorney authorized to practice in this State or by [a clerk of the court] the Clerk of the Superior Court must be served in compliance with *R.* 1:9-3 and *R.* 1:9-4.

(5) ...no change.

(6) Motion or Application to a Court. A motion or an application to the court for a protective order or to enforce, quash, or modify a subpoena issued by an attorney authorized to practice in this State or by [a clerk of the court] the Clerk of the Superior Court under section (b) must comply with the rules and statutes of this State and be submitted to the court in the county in which discovery is to be conducted or the deponent resides, is employed or transacts business. It must be filed as a miscellaneous matter bearing the caption that appears on the subpoena. The following phrase must appear below the case number of the newly filed matter: "Motion or Application Related to a Subpoena Issued Under *R.* 4:11-4(b)." Any later motion or application relating to the same subpoena must be filed in the same matter.

[(7) Application to Pending Actions. This section applies to requests for discovery in cases pending on the effective date of this section.]

Note: Source — *R.R.* 4:17-4. Amended July 21, 1980 to be effective September 8, 1980; text amended and designated as paragraph (a), paragraph (a) caption adopted, and new paragraph (b) adopted July 22, 2014 to be effective September 1, 2014; paragraph (a) and subparagraphs (b)(1), (b)(4) and (b)(6) amended and subparagraph (b)(7) deleted August 1, 2016 to be effective September 1, 2016.

4:14-6. Certification and Filing by Officer; Exhibits; Copies

(a) Certification and Filing. The officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony. The officer shall then promptly file with the deputy clerk of the Superior Court in the county of venue a statement captioned in the cause setting forth the date on which the deposition was taken, the name and address of the witness, and the name and address of the reporter from whom a transcript of the deposition may be obtained by payment of the prescribed fee. The reporter shall furnish the party taking the deposition with the original and a copy thereof. Depositions shall not be filed unless the court so orders on its or a party's motion. The original deposition shall, however, be made available to the judge to whom any proceeding in the matter has been assigned for disposition at the time of the hearing or as the judge may otherwise request. Filed depositions shall be returned by the court to the party taking the deposition after the termination of the action. A videotaped deposition shall be sealed and filed in accordance with *R.* 4:14-9(d). A reporter's backup recording, if any, used as an aid in preparing the transcript, is not a judicial record and shall not be made available to any party absent an order of the court.

(b) ...no change.

(c) ...no change.

Note: Source — *R.R.* 4:20-6(a)(b)(c). Paragraph (c) amended July 14, 1972 to be effective September 5, 1972; paragraphs (a) and (c) amended July 21, 1980 to be effective September 8, 1980; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraphs (a) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

4:18-1. Production of Documents, Electronically Stored Information, and Things and Entry Upon Land for Inspection and Other Purposes; Pre-Litigation Discovery

(a) Scope. ... no change

(b) Procedure; Continuing Obligation; Failure to Respond; Objections; Motions. ... no change

(c) Certification or Affidavit of Completeness. ... no change

(d) Persons Not Parties. ... no change

Note: Source - R.R. 4:24-1. Former rule deleted and new R. 4:18-1 adopted July 14, 1972 to be effective September 5, 1972; rule caption and paragraph (c) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; caption and paragraphs (a) and (b) amended July 27, 2006 to be effective September 1, 2006; paragraph (b) caption amended, paragraph (b) text reallocated and captioned as subparagraphs (b)(1) and (b)(2), subparagraph (b)(2) amended, new subparagraphs (b)(3) and (b)(4) adopted, former paragraph (c) redesignated as paragraph (d), and new paragraph (c) caption and text adopted July 23, 2010 to be effective September 1, 2010.

Official Comment (August 1, 2016)

Parties may request metadata in electronic documents. Metadata is embedded information in electronic documents that is generally hidden from view in a printed copy of a document. It is generated when documents are created or revised on a computer. Metadata may reflect such information as the author of a document, the date or dates on which the document was revised, tracked revisions to the document, and comments inserted in the margins. It may also reflect information necessary to access, understand, search, and display the contents of documents created in spreadsheet, database, and similar applications.

Litigants and lawyers should be aware that metadata may be present in electronic documents produced in discovery. Parties are encouraged to meet and confer about the format in which they will produce electronic documents. Parties also should seek agreement on whether the receiving party may review unrequested metadata in electronic documents. For example, the parties may agree not to "strip" documents of metadata (due to spoliation concerns), or to refrain from reviewing metadata in electronic documents when metadata has not been specifically requested in discovery. If lawyers are permitted to review metadata in electronic documents submitted in discovery, they should agree on the manner in which metadata will be addressed in a privilege log.

The selection of the format of electronic documents sought in discovery can determine the amount of metadata to be produced, and significantly affect the cost of discovery. Those considerations should be evaluated in light of the scope and complexity of the case. The burden on the producing party caused by the selection of format of documents sought in discovery should be considered and appropriately balanced against the requesting party's need for metadata. Judges, when reviewing a motion to compel discovery or for a protective order, should also consider the limitations of Rule 4:10-2(g).

If electronic documents are provided in response to a discovery request, the receiving lawyer should consider his or her obligations under Rule of Professional Conduct 4.4(b) before reviewing metadata.

Parties have an obligation to preserve metadata in electronic documents, subject to a standard of reasonableness.

4:21A-4. Conduct of Hearing

(a) ...no change.

(b) ...no change.

(c) ...no change.

(d) ...no change.

(e) ...no change.

(f) Failure to Appear. An appearance on behalf of each party is required at the arbitration hearing. If the party claiming damages does not appear, that party's pleading shall be dismissed. If a party defending against a claim of damages does not appear, that party's pleading shall be stricken, the arbitration shall proceed and the non-appearing party shall be deemed to have waived the right to demand a trial *de novo*. [Relief from any order entered pursuant to this rule shall be granted only on motion showing good cause and on such terms as the court may deem appropriate, including litigation expenses and attorney's fees incurred for services directly related to the non-appearance.] A party obtaining the arbitration award against the non-appearing party shall serve a copy of the arbitration award within 10 days of receipt of the arbitration award from the court pursuant to R. 4:21A-5. Service shall be upon counsel of record, or, if not represented, upon such non-appearing party. Service shall be made as set forth in *R.* 4:21A-9(c). Relief from any order entered pursuant to this rule shall be granted only on motion showing good cause, which motion shall be filed within 20 days of the date of service on the non-appearing party by the appearing party. Relief shall be on such terms as the court may deem appropriate, including litigation expenses and attorney's fees incurred for services directly related to the non-appearance.

Note: Adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraphs (a) and (d) amended, and new paragraph (f) adopted July 5, 2000 to be effective September 5, 2000; paragraph (f) amended July 23, 2010 to be effective September 1, 2010; paragraph (f) amended August 1, 2016 to be effective September 1, 2016.

4:21A-5. Arbitration Award

No later than ten days after the completion of the arbitration hearing, the arbitrator shall file the written award with the civil division manager. The court shall provide a copy thereof to [each of] the parties who appear at the hearing. The award shall include a notice of the right to request a trial *de novo* and the consequences of such a request as provided by *R.* 4:21A-6.

Note: Adopted November 1, 1985 to be effective January 2, 1986; paragraph (c) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (c)(1) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) caption deleted and text amended, and paragraphs (b) and (c) deleted July 5, 2000 to be effective September 5, 2000; amended August 1, 2016 to be effective September 1, 2016.

4:30A. Entire Controversy Doctrine

Non-joinder of claims required to be joined by the entire controversy doctrine shall result in the preclusion of the omitted claims to the extent required by the entire controversy doctrine, except as otherwise provided by *R.* 4:64-5 (foreclosure actions) and *R.* 4:67-4(a) (leave required for counterclaims or cross-claims in summary actions). Claims of bad faith, which are asserted against an insurer after an underlying uninsured motorist/underinsured motorist claim is resolved in a Superior Court action, are not precluded by the entire controversy doctrine.

Note: Adopted June 29, 1990 to be effective September 4, 1990; amended July 14, 1992 to be effective September 1, 1992; amended July 10, 1998 to be effective September 1, 1998; amended August 1, 2016 to be effective September 1, 2016.

4:46-2. Motion and Proceedings Thereon

(a) Requirements in Support of Motion. The motion for summary judgment shall be served with a brief[s,] and a separate statement of material facts [and] with or without supporting affidavits. The statement of material facts shall set forth in separately numbered paragraphs a concise statement of each material fact as to which the movant contends there is no genuine issue together with a citation to the portion of the motion record establishing the fact or demonstrating that it is uncontroverted. The citation shall identify the document and shall specify the pages and paragraphs or lines thereof or the specific portions of exhibits relied on. A motion for summary judgment may be denied without prejudice for failure to file the required statement of material facts.

(b) ...no change.

(c) ...no change.

Note: Source — *R.R.* 4:58-3. Amended July 14, 1972 to be effective September 5, 1972; amended June 29, 1973 to be effective September 10, 1973; amended and subparagraphs designated June 28, 1996 to be effective September 1, 1996; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

4:58-2. Consequences of Non-Acceptance of Claimant's Offer

(a) In cases other than actions against an automobile insurance carrier for uninsured motorist/underinsured motorist benefits, [I]if the offer of a claimant is not accepted and the claimant obtains a money judgment, in an amount that is 120% of the offer or more, excluding allowable prejudgment interest and counsel fees, the claimant shall be allowed, in addition to costs of suit: (1) all reasonable litigation expenses incurred following non-acceptance; (2) prejudgment interest of eight percent on the amount of any money recovery from the date of the offer or the date of completion of discovery, whichever is later, but only to the extent that such prejudgment interest exceeds the interest prescribed by *R.* 4:42-11(b), which also shall be allowable; and (3) a reasonable attorney's fee for such subsequent services as are compelled by the non-acceptance.

(b) In cases involving actions against automobile carriers for uninsured/underinsured motorist benefits, if the offer of a claimant is not accepted and the claimant obtains a monetary award by jury or non-jury verdict (adjusted to reflect comparative negligence, if any) in an amount that is 120% of the offer or more, excluding allowable prejudgment interest and counsel fees, the claimant shall be allowed, in addition to costs of suit: (1) all reasonable litigation expenses incurred following non-acceptance; (2) prejudgment interest of eight percent on the amount of any money recovery from the date of the offer or the date of completion of discovery, whichever is later, but only to the extent that such prejudgment interest exceeds the interest prescribed by *R.* 4:42-11(b), which also shall be allowable; and (3) a reasonable attorney's fee for such subsequent services as are compelled by the non-acceptance.

[(b)] (c) No allowances shall be granted pursuant to paragraphs (a) or (b) if they would impose undue hardship. If undue hardship can be eliminated by reducing the allowance to a lower sum, the court shall reduce the amount of the allowance accordingly.

Note: Amended July 7, 1971 to be effective September 13, 1971; amended July 14, 1972 to be effective September 5, 1972; amended July 17, 1975 to be effective September 8, 1975; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended July 28, 2004 to be effective September 1, 2004; text amended and designated as paragraph (a), new paragraph (b) adopted July 27, 2006 to be effective September 1, 2006; paragraph (a) amended July 23, 2010 to be effective September 1, 2010; paragraph (a) amended, new paragraph (b) added, and previous paragraph (b) redesignated as paragraph (c) August 1, 2016 to be effective September 1, 2016.

4:58-3. Consequences of Non-Acceptance of Offer of Party Not a Claimant

(a) If the offer of a party other than the claimant is not accepted, and the claimant obtains a monetary judgment, or in the case of a claim for uninsured/underinsured motorist benefits, a verdict (molded to reflect comparative negligence, if any), that is favorable to the offeror as defined by this rule, the offeror shall be allowed, in addition to costs of suit, the allowances as prescribed by *R.* 4:58-2, which shall constitute a prior charge on the judgment or verdict in uninsured/underinsured motorist actions.

(b) A favorable determination qualifying for allowances under this rule is a money judgment or in the case of a claim for uninsured/underinsured motorist benefits, a verdict (molded to reflect comparative negligence, if any) in an amount, excluding allowable prejudgment interest and counsel fees, that is 80% of the offer or less.

(c) No allowances shall be granted if (1) the claimant's claim is dismissed, (2) a no-cause verdict is returned, (3) only nominal damages are awarded, (4) a fee allowance would conflict with the policies underlying a fee-shifting statute or rule of court, or (5) an allowance would impose undue hardship. If, however, undue hardship can be eliminated by reducing the allowance to a lower sum, the court shall reduce the amount of the allowance accordingly.

Note: Source — *R.R.* 4:73; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended July 28, 2004 to be effective September 1, 2004; text allocated into paragraphs (a), (b), (c), and paragraphs (a), (b), (c) amended July 27, 2006 to be effective September 1, 2006; paragraphs (a) and (b) amended August 1, 2016 to be effective September 1, 2016.

4:72-3. Notice of Application

The court by order shall fix a date for hearing not less than 30 days after the date of the order. Notice of application shall then be published in a newspaper of general circulation in the county of plaintiff's residence once, at least two weeks preceding the date of the hearing. Notice of application must be served by certified and regular mail, at least 20 days prior to the hearing to the Director of the Division of Criminal Justice to the attention of the Records and Identification Section. The court shall also require, in the case of a minor plaintiff, that notice be served by registered or certified mail, return receipt requested, upon a non-party parent at that parent's last known address.

Note: Source — *R.R.* 4:91-3. Amended July 7, 1971 to be effective September 13, 1971; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended August 1, 2016 to be effective September 1, 2016.

4:72-4. Hearing; Judgment; Publication; Filing

On the date fixed for hearing the court, if satisfied from the filed papers, with or without oral testimony, that there is no reasonable objection to the assumption of another name by plaintiff, shall by its judgment authorize plaintiff to assume such other name from and after the time fixed therein, which shall be not less than 30 days from the entry thereof. At the hearing, plaintiff must present adequate proof of his or her current name. Within 20 days after entry of judgment, a copy thereof, from which plaintiff's social security number shall be redacted, shall be published in a newspaper of general circulation in the county of plaintiff's residence, and within 45 days after entry of judgment, the unredacted judgment and affidavit of publication of the judgment shall be filed with the deputy clerk of the Superior Court in the county of venue and a certified copy of the unredacted judgment shall be filed with the appropriate office within the Department of Treasury. If plaintiff has been convicted of a crime or if criminal charges are pending, the clerk shall mail a copy of the judgment to the State Bureau of Identification.

Note: Source — *R.R.* 4:91-4; amended July 24, 1978 to be effective September 11, 1978; amended July 11, 1979 to be effective September 10, 1979; amended July 22, 1983 to be effective September 12, 1983; amended July 14, 1992 to be effective September 1, 1992; amended July 13, 1994 to be effective September 1, 1994; amended June 20, 2003 to be effective immediately; amended August 1, 2016 to be effective September 1, 2016 .

4:86-1. [Complaint] Action; Records; Guardianship Monitoring Program

(a) Every action for the determination of incapacity of a person and for the appointment of a guardian of that person or of the person's estate or both, other than an action with respect to a veteran under *N.J.S.A.* 3B:13-1 *et seq.*, or with respect to a kinship legal guardianship under *N.J.S.A.* 3B:12A-1 *et seq.*, shall be brought pursuant to *R.* 4:86-1 through *R.* 4:86-8 for appointment of a general, limited or *pendente lite* temporary guardian. [The complaint shall state the name, age, domicile and address of the plaintiff, of the alleged incapacitated person and of the alleged incapacitated person's spouse, if any; the plaintiff's relationship to the alleged incapacitated person; the plaintiff's interest in the action; the names, addresses and ages of the alleged incapacitated person's children, if any, and the names and addresses of the alleged incapacitated person's parents and nearest of kin; the name and address of the person or institution having the care and custody of the alleged incapacitated person; and if the alleged incapacitated person has lived in an institution, the period or periods of time the alleged incapacitated person has lived therein, the date of the commitment or confinement, and by what authority committed or confined. The complaint also shall state the name and address of any person named as attorney-in-fact in any power of attorney executed by the alleged incapacitated person, any person named as health care representative in any health care directive executed by the alleged incapacitated person, and any person acting as trustee under a trust for the benefit of the alleged incapacitated person.]

(b) Judiciary records of all actions set forth in *R.* 4:86-1(a) shall be maintained by the Surrogate and shall be accessible pursuant to *R.* 1:38-3(e).

(c) Each vicinage shall operate a Guardianship Monitoring Program through the collaboration of the Superior Court, Chancery Division, Probate Part; the County Surrogates; and

the Administrative Office of the Courts, Civil Practice Division.

(1) The functions of guardianship support and monitoring shall be established by the Administrative Director of the Courts. Such functions shall include guardianship training and review of inventories and periodic reports of financial accounting filed by guardians as required by *R.* 4:86-6(e).

(2) Post-adjudicated case issues identified through monitoring may be forwarded for further action by the Superior Court, Chancery Division, Probate Part and/or the Administrative Office of the Courts.

(3) Case monitoring issues referred to the attention of the Superior Court, Chancery Division, Probate Part shall be promptly reviewed and such further action taken as deemed appropriate in the discretion of the court.

(4) Quasi-judicial immunity shall be extended to Judiciary staff, County Surrogates, County Surrogate staff, and volunteers performing monitoring responsibilities in the Guardianship Monitoring Program.

Note: Source — *R.R.* 4:102-1. Amended July 22, 1983 to be effective September 12, 1983; former R. 4:83-1 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; *R.* 4:86 caption amended, and text of *R.* 4:86-1 amended July 12, 2002 to be effective September 3, 2002; caption to *Rule* 4:86 amended, and text of *Rule* 4:86-1 amended July 9, 2008 to be effective September 1, 2008; caption amended, former text amended and designated as paragraph (a), and new paragraphs (b) and (c) added August 1, 2016 to be effective September 1, 2016.

4:86-2. Complaint; Accompanying Documents; Alternative Affidavits or Certifications

(a) Complaint. The allegations of the complaint shall be verified as prescribed by *R.* 1:4-7. [and shall have annexed thereto] The complaint shall state:

(1) the name, age, domicile and address of the plaintiff, of the alleged incapacitated person and of the alleged incapacitated person's spouse, if any;

(2) the plaintiff's relationship to the alleged incapacitated person;

(3) the plaintiff's interest in the action;

(4) the names, addresses and ages of the alleged incapacitated person's children, if any, and the names and addresses of the alleged incapacitated person's parents and nearest of kin, meaning at a minimum all persons of the same degree of relationship to the alleged incapacitated person as the plaintiff;

(5) the name and address of the person or institution having the care and custody of the alleged incapacitated person;

(6) if the alleged incapacitated person has lived in an institution, the period or periods of time the alleged incapacitated person has lived therein, the date of the commitment or confinement, and by what authority committed or confined; and

(7) the name and address of any person named as attorney-in-fact in any power of attorney executed by the alleged incapacitated person, any person named as health care representative in any health care directive executed by the alleged incapacitated person, and any person acting as trustee under a trust for the benefit of the alleged incapacitated person.

(b) Accompanying Documents. The complaint shall have annexed thereto:

(1) An affidavit or certification stating the nature, [location] description, and fair market value [(1)] of the following, in such form as promulgated by the Administrative Director of the Courts:

(A) all real estate in which the alleged incapacitated person has or may have a present or future interest, stating the interest, describing the real estate fully [or by metes and bounds,] and stating the assessed valuation thereof; [and (2) of]

(B) all the personal estate which he or she is, will or may in all probability become entitled to, including stocks, bonds, mutual funds, securities and investment accounts; money on hand, annuities, checking and savings accounts and certificates of deposit in banks and notes or other indebtedness due the alleged incapacitated person; pensions and retirement accounts, including annuities and profit sharing plans; miscellaneous personal property; and the nature and total monthly [or annual] amount of any [compensation, pension, insurance, or] income which may be payable to the alleged incapacitated person[. If the plaintiff cannot secure such information, the complaint shall so state and give reasons therefor, and the affidavit submitted shall in that case contain as much information as can be secured in the exercise of reasonable diligence]; and

(C) the encumbrance amount of any debt including any secured associated debt related to the real estate or personal estate of the alleged incapacitated person.

[(b)](2) Affidavits or certifications of two physicians[,] having qualifications set forth in *N.J.S.A.* 30:4-27.2t, or the affidavit or certification of one such physician and one licensed practicing psychologist as defined in *N.J.S.A.* 45:14B-2, in such form as promulgated by the Administrative Director of the Courts. Pursuant to *N.J.S.A.* 3B:12-24.1(d), the affidavits or certifications may make disclosures about the alleged incapacitated person. If an alleged

incapacitated person has been committed to a public institution and is confined therein, one of the affidavits or certifications shall be that of the chief executive officer, the medical director, or the chief of service providing that person is also the physician with overall responsibility for the professional program of care and treatment in the administrative unit of the institution. However, where an alleged incapacitated person is domiciled within this State but resident elsewhere, the affidavits or certifications required by this rule may be those of persons who are residents of the state or jurisdiction of the alleged incapacitated person's residence. Each affiant shall have made a personal examination of the alleged incapacitated person not more than 30 days prior to the filing of the complaint, but said time period may be relaxed by the court on an ex parte showing of good cause. To support the complaint, each affiant shall state:

[(1)](A) the date and place of the examination;

[(2)](B) whether the affiant has treated or merely examined the alleged incapacitated individual;

[(3)](C) whether the affiant is disqualified under *R.* 4:86-3;

[(4)](D) the diagnosis and prognosis and factual basis therefor;

[(5)](E) for purposes of ensuring that the alleged incapacitated person is the same individual who was examined, a physical description of the person examined, including but not limited to sex, age and weight;

[(6)](F) the affiant's opinion of the extent to which the alleged incapacitated person is unfit and unable to govern himself or herself and to manage his or her affairs and shall set forth with particularity the circumstances and conduct of the alleged incapacitated person upon which this opinion is based, including a history of the alleged incapacitated person's condition; [and]

[(7)](G) if applicable, the extent to which the alleged incapacitated person retains sufficient capacity to retain the right to manage specific areas, such as[,] residential, educational, medical, legal, vocational or financial decisions; and [. The affidavit should also include]

(H) an opinion on whether the alleged incapacitated person is capable of attending or otherwise participating in the hearing and, if not, the reasons for the individual's inability[.]; and

(3) A Case Information Statement in such form as promulgated by the Administrative Director of the Courts. Said Case Information Statement shall include the date of birth and Social Security number of the alleged incapacitated person.

(c) Alternative Affidavits or Certifications.

(1) If the plaintiff cannot secure the information required in paragraph (b)(1), the complaint shall so state and give the reasons therefor, and the affidavit or certification submitted shall in that case contain as much information as can be secured in the exercise of reasonable diligence.

(2) In lieu of the affidavits or certifications provided for in paragraph (b)(2), an affidavit or certification of one affiant having the qualifications as required therein shall be submitted, stating that he or she has endeavored to make a personal examination of the alleged incapacitated person not more than 30 days prior to the filing of the complaint but that the alleged incapacitated person or those in charge of him or her have refused or are unwilling to have the affiant make such an examination. The time period herein prescribed may be relaxed by the court on an ex parte showing of good cause.

Note: Source — *R.R.* 4:102-2; former *R.* 4:83-2 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a), (b), and (c) amended July 12, 2002 to be effective September 3, 2002;

paragraphs (b) and (c) amended July 28, 2004 to be effective September 1, 2004; paragraphs (a), (b) and (c) amended July 9, 2008 to be effective September 1, 2008; caption amended, and paragraphs (a), (b) and (c) amended and captions added August 1, 2016 to be effective September 1, 2016.

4:86-3. Disqualification of Affiant

No affidavit or certification shall be submitted by a physician or psychologist who is related, either through blood or marriage, to the alleged incapacitated person or to a proprietor, director or chief executive officer of any institution (except state, county or federal institutions) for the care and treatment of the ill in which the alleged incapacitated person is living, or in which it is proposed to place him or her, or who is professionally employed by the management thereof as a resident physician or psychologist, or who is financially interested therein.

Note: Source — *R.R.* 4:102-3; former *R.* 4:83-3 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; amended July 12, 2002 to be effective September 3, 2002; caption and text amended July 28, 2004 to be effective September 1, 2004; amended July 9, 2008 to be effective September 1, 2008; amended August 1, 2016 to be effective September 1, 2016.

4:86-3A. Action on Complaint

(a) Review of Complaint Prior to Docketing. Prior to docketing, the Surrogate shall review the complaint to ensure that proper venue is laid and that it contains all information required by *R.* 4:86-2.

(b) Docketing.

(1) Upon the filing of a complaint for the determination of incapacity of a person and for the appointment of a guardian, if it appears that there is jurisdiction and that the complaint is substantially complete in all respects, the complaint shall be docketed.

(2) If, after docketing, there is a lack of jurisdiction, the court shall dismiss the complaint forthwith. If a complaint is not substantially complete in all respects, the Surrogate shall process the complaint in accordance with *R.* 1:5-6.

(c) Availability of Guardianship File. The Surrogate shall make the complete guardianship file available to the court upon request.

Note: New rule adopted August 1, 2016 to be effective September 1, 2016.

4:86-4. Order for Hearing

(a) Contents of Order.

(1) If the court is satisfied with the sufficiency of the complaint and supporting affidavits and that further proceedings should be taken thereon, it shall enter an order fixing a date for hearing. [and requiring]

(2) The order shall require that at least 20 days' notice thereof be given to the alleged incapacitated person, any person named as attorney-in-fact in any power of attorney executed by the alleged incapacitated person, any person named as health care representative in any health care directive executed by the alleged incapacitated person, and any person acting as trustee under a trust for the benefit of the alleged incapacitated person, the alleged incapacitated person's spouse, children 18 years of age or over, parents, the person having custody of the alleged incapacitated person, the attorney appointed pursuant to *R.* 4:86-4(b), and such other persons as the court directs. Notice shall be effected by service of a copy of the order, complaint and supporting affidavits upon the alleged incapacitated person personally and upon each of the other persons in such manner as the court directs.

(3) The order for hearing shall expressly provide that appointed counsel for the alleged incapacitated person is authorized to seek and obtain medical and psychiatric information from all health care providers.

(4) The court [, in the order, may, for good cause, allow shorter notice or dispense with notice, but in such case the order shall recite the ground therefor, and proof shall be submitted at the hearing that the ground for such dispensation continues to exist] may allow shorter notice or waive notice upon a showing of good cause. In such case, the order shall recite

the basis for shortening or waiving notice, and proof shall be submitted at the hearing that such basis continues to exist.

(5) A separate notice shall[, in addition,] be personally served on the alleged incapacitated person stating that if he or she desires to oppose the action, he or she may appear either in person or by attorney, and may demand a trial by jury.

(6) The order for hearing shall require that any proposed guardian complete guardianship training as promulgated by the Administrative Director of the Courts; however, agencies authorized to act pursuant to P.L.1985, c. 298 (C.52:27G-20 et seq.), P.L.1985, c. 145 (C.30:6D-23 et seq.), P.L.1965, c. 59 (C.30:4-165.1 et seq.) and P.L.1970, c. 289 (C.30:4-165.7 et seq.) and public officials appointed as limited guardians of the person for medical purposes for individuals in psychiatric facilities listed in R.S.30:1-7 shall be exempt from this requirement.

(7) If the alleged incapacitated person is not represented by counsel, the order shall include the appointment by the court of counsel for the alleged incapacitated person.

(b) [Appointment and] Duties of Counsel.

(1) [The order shall include the appointment by the court of counsel for the alleged incapacitated person.] Counsel shall (i) personally interview the alleged incapacitated person; (ii) make inquiry of persons having knowledge of the alleged incapacitated person's circumstances, his or her physical and mental state and his or her property; (iii) make reasonable inquiry to locate any will, powers of attorney, or health care directives previously executed by the alleged incapacitated person or to discover any interests the alleged incapacitated person may have as beneficiary of a will or trust.

(2) At least [three] ten days prior to the hearing date, counsel shall file a report with the court and serve a copy thereof on plaintiff's attorney and other parties who have formally appeared in the matter. The report shall [contain] include the following:

(i) the information developed by counsel's inquiry;

(ii) [shall make] recommendations concerning the court's determination on the issue of incapacity;

(iii) [may make] any recommendations concerning the suitability of less restrictive alternatives such as a conservatorship or a delineation of those areas of decision-making that the alleged incapacitated person may be capable of exercising;

(iv) [and] whether a case plan for the incapacitated person should thereafter be submitted to the court; [. The report shall further state]

(v) whether the alleged incapacitated person has expressed dispositional preferences and, if so, counsel shall argue for their inclusion in the judgment of the court; and[. The report shall also make]

(vi) recommendations concerning whether good cause exists for the court to order that any power of attorney, health care directive, or revocable trust created by the alleged incapacitated person be revoked or the authority of the person or persons acting thereunder be modified or restricted.

(3) If the alleged incapacitated person obtains other counsel, such counsel shall notify the court and appointed counsel at least [five] ten days prior to the hearing date.

(c) Examination. If the affidavit or certification supporting the complaint is made pursuant to *R.* 4:86-2(c), the court may, on motion and upon notice to all persons entitled to notice of the hearing under paragraph (a), order the alleged incapacitated person to submit to an

examination. The motion shall set forth the names and addresses of the physicians who will conduct the examination, and the order shall specify the time, place and conditions of the examination. Upon request, the report thereof shall be furnished to either the examined party or his or her attorney.

(d) Guardian Ad Litem. ...no change

(e) Compensation. ...no change

Note: Source — *R.R.* 4:102-4(a) (b). Paragraph (b) amended July 16, 1979 to be effective September 10, 1979; paragraph (a) amended July 21, 1980 to be effective September 8, 1980; paragraph (a) amended July 16, 1981 to be effective September 14, 1981; caption of former *R.* 4:83-4 amended, caption and text of paragraph (a) amended and in part redesignated as paragraph (b) and former paragraph (b) redesignated as paragraph (c) and amended, and rule redesignated June 29, 1990 to be effective September 4, 1990; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended and paragraphs (d) and (e) added June 28, 1996 to be effective September 1, 1996; paragraphs (a), (b), (c), (d), and (e) amended July 12, 2002 to be effective September 3, 2002; paragraph (e) amended July 27, 2006 to be effective September 1, 2006; paragraphs (a), (b),(c),(d) and (e) amended July 9, 2008 to be effective September 1, 2008; paragraph (a) amended, subparagraphs enumerated and paragraphs (a)(6) and (a)(7) adopted, paragraph (b) amended and subparagraphs enumerated, and paragraph (c) amended August 1, 2016 to be effective September 1, 2016.

4:86-5. Proof of Service; Appearance of Alleged Incapacitated Person at Hearing; Answer

(a) Not later than ten days [P]prior to the hearing, the plaintiff shall file proof of service of the notice, order for hearing, complaint and affidavits or certifications and proof by affidavit that the alleged incapacitated person has been afforded the opportunity to appear personally or by attorney, and that he or she has been given or offered assistance to communicate with friends, relatives or attorneys. [The plaintiff or appointed counsel shall produce the alleged incapacitated person at the hearing, unless the plaintiff and the court-appointed attorney certify that the alleged incapacitated person is unable to appear because of physical or mental incapacity and the court finds that it would be prejudicial to the health of the alleged incapacitated person or unsafe for the alleged incapacitated person or others to do so. If the alleged incapacitated person or any person receiving notice of the hearing intends to appear by an attorney, such person shall, not later than five days before the hearing, serve and file an answer, affidavit, or motion in response to the complaint.]

(b) Prior to the hearing, unless good cause shown, but no later than prior to qualification, any proposed guardian must complete guardianship training as promulgated by the Administrative Director of the Courts. Agencies authorized to act pursuant to P.L.1985, c. 298 (C.52:27G-20 et seq.), P.L.1985, c. 145 (C.30:6D-23 et seq.), P.L.1965, c. 59 (C.30:4-165.1 et seq.) and P.L.1970, c. 289 (C.30:4-165.7 et seq.) and public officials appointed as limited guardians of the person for medical purposes for individuals in psychiatric facilities listed in R.S.30:1-7 shall be exempt from this requirement.

(c) The plaintiff or appointed counsel shall produce the alleged incapacitated person at the hearing, unless the plaintiff and the court-appointed attorney certify that the alleged incapacitated person is unable to appear because of physical or mental incapacity.

(d) If the alleged incapacitated person or any person receiving notice of the hearing intends to appear by an attorney, such person shall, not later than ten days before the hearing, serve and file an answer, affidavit, or motion in response to the complaint.

Note: Source — *R.R.* 4:102-5; caption and text of former *R.* 4:83-5 amended and rule redesignated June 29, 1990 to be effective September 4. 1990; amended July 12, 2002 to be effective September 3, 2002; caption and text amended July 9, 2008 to be effective September 1, 2008; text amended and designated as paragraph (a) and new paragraphs (b), (c), and (d) added August 1, 2016 to be effective September 1, 2016.

4:86-6. Hearing; Judgment

(a) Trial. Unless a trial by jury is demanded by or on behalf of the alleged incapacitated person, or is ordered by the court, the court [without a jury] shall, after taking testimony in open court, determine the issue of incapacity. [If there is no jury, t]The court, with the consent of counsel for the alleged incapacitated person, may take the testimony of a person who has filed an affidavit or certification pursuant to *R.* 4:86-2(b) by telephone or may dispense with oral testimony and rely on the affidavits or certifications submitted. Telephone testimony shall be recorded verbatim.

(b) ...no change.

(c) Appointment of General or Limited Guardian. If a general or limited guardian of the person or of the estate or of both the person and estate is to be appointed, the court shall appoint and letters shall be granted to any of the following:

(1) the incapacitated person's spouse, if the spouse was living with the incapacitated person as husband or wife at the time the incapacity arose[, or to];

(2) the incapacitated person's next of kin[,]; or

(3) the Office of the Public Guardian for Elderly Adults [for adults] within the statutory mandate of that office[, or if].

If none of them will accept the appointment, or if the court is satisfied that no appointment from among them will be in the best interests of the incapacitated person or estate, then the court shall appoint and letters shall be granted to such other person who will accept appointment as the court determines is in the best interests of the incapacitated person. [including] Such persons may include registered professional guardians or surrogate decision-

makers chosen by the incapacitated person before incapacity by way of a durable power of attorney, health care proxy, or advanced directive.

(d) Judgment.

(1) The judgment of legal incapacity and appointment of guardian shall be in such form and include all such provisions as promulgated by the Administrative Director of the Courts, except to the extent that the court explicitly directs otherwise.

(2) Unless expressly waived therein, the judgment appointing the guardian shall fix the amount of the bond. If there are extraordinary reasons justifying the waiver of a bond, that determination shall be set forth in a decision supported by appropriate factual findings.

(3) A proposed judgment of legal incapacity and appointment of guardian shall be filed with the Surrogate not later than ten days prior to the hearing.

[(d)](e) Duties of Guardian.

(1) [Before letters of guardianship shall issue] Not later than 30 days after entry of the judgment of legal incapacity and appointment of guardian, the guardian shall qualify and accept the appointment in accordance with *R.* 4:96-1. [The judgment appointing the guardian shall fix the amount of the bond, unless dispensed with by the court. The order of appointment shall require the guardian of the estate to file with the court within 90 days of appointment an inventory specifying all property and income of the incapacitated person's estate, unless the court dispenses with this requirement. Within this time period, the guardian of the estate shall also serve copies of the inventory on all next of kin and such other interested parties as the court may direct. The order shall also require the guardian to keep the Surrogate continuously advised of the whereabouts and telephone number of the guardian and of the incapacitated person, to advise the Surrogate within 30 days of the incapacitated person's death or of any major change in

his or her status or health and to report on the condition of the incapacitated person and property as required by *N.J.S.A.* 3B:12-42.] The acceptance of appointment shall include an acknowledgment that the guardian has completed guardianship training as promulgated by the Administrative Director of the Courts in accordance with *R.* 4:86-5(b).

(2) Unless expressly waived in the judgment, the guardian of the estate shall file with the Surrogate, and serve on all interested parties, within 90 days of appointment an inventory in such form as promulgated by the Administrative Director of the Courts specifying all property and income of the incapacitated person's estate.

(3) Unless expressly waived in the judgment, the guardian of the estate shall file with the Surrogate reports of the financial accounting of the incapacitated person as required by *N.J.S.A.* 3B:12-42 and in such form as promulgated by the Administrative Director of the Courts. The report shall be filed annually unless otherwise specified in the judgment.

(4) Unless expressly waived in the judgment, the guardian of the person shall file with the Surrogate reports of the well-being of the incapacitated person as required by *N.J.S.A.* 3B:12-42 and in such form as promulgated by the Administrative Director of the Courts. The report shall be filed annually unless otherwise specified in the judgment.

(5) The judgment shall also require the guardian to keep the Surrogate reasonably advised of the whereabouts and telephone number of the guardian and of the incapacitated person, and to advise the Surrogate within 30 days of the incapacitated person's death or of any major change in his or her status or health. As to the incapacitated person's death, the guardian shall provide written notification to the Surrogate and shall provide the Surrogate with a copy of the death certificate within seven days of the guardian's receipt of the death certificate.

(6) A guardian shall cooperate fully with any Court or Surrogate staff or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the guardian's death, removal or discharge.

(7) The guardian shall monitor the capacity of the incapacitated person over time and take such steps as are necessary to protect the interests of the incapacitated person, including but not limited to initiating an action for return to capacity as provided in *N.J.S.A.* 3B:12-28.

(f) Duties of Surrogate.

(1) The Surrogate shall provide the entire complete guardianship file to the court for review no later than seven days before the hearing.

(2) At the time of qualification and issuance of letters of guardianship, the Surrogate shall review the acceptance of appointment and letters of guardianship with the guardian in such form as promulgated by the Administrative Director of the Courts.

(3) The Surrogate shall issue letters of guardianship following the guardian's qualification. The Surrogate shall record issuance of all letters of guardianship. Letters of guardianship shall accurately reflect the provisions of the judgment.

(4) The Surrogate shall record receipt of all inventories, reports of financial accounting, and reports of well-being filed pursuant to paragraphs (e)(3) thru (e)(5) above.

(5) The Surrogate shall notify the court, and shall issue notices to the guardian in such form as promulgated by the Administrative Director of the Courts, in the event that:

(A) the guardian fails to qualify and accept the appointment within 30 days after entry of the judgment of legal incapacity and appointment of guardian in accordance with paragraph (e)(1) above; or

(B) the guardian fails to timely file inventories, reports of financial accounting, and/or reports of well-being filed in accordance with paragraphs (e)(3) thru (e)(5) above.

(6) The Surrogate shall immediately notify the court if they are informed through oral or written communication, or become aware by other means, of emergent allegations of substantial harm to the physical or mental health, safety and well-being, and/or the property or business affairs, of an alleged or adjudicated incapacitated person. However, the Surrogate shall have no obligation to review inventories, periodic reports of well-being, informal accountings, or other documents filed by guardians, except for formal accountings subject to audit by the Surrogate.

(7) The Surrogate shall record the death of the incapacitated person.

Note: Source — *R.R.* 4:102-6(a) (b) (c), 4:103-3 (second sentence). Paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (c) of former *R.* 4:83-6 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; paragraph (a) amended, text of paragraph (c) redesignated as paragraphs (c) and (d) and amended, paragraph (c) caption amended, and paragraph (d) caption adopted July 9, 2008 to be effective September 1, 2008; paragraphs (a) and (c) amended, new paragraph (d) added, former paragraph (d) amended and redesignated as paragraph (e), and new paragraph (f) added August 1, 2016 to be effective September 1, 2016.

4:86-7. [Regaining Full or Partial Capacity] Rights of an Incapacitated Person; Proceedings for Review of Guardianship

(a) An individual subject to a general or limited guardianship shall retain:

(1) The right to be treated with dignity and respect;

(2) The right to privacy;

(3) The right to equal treatment under the law;

(4) The right to have personal information kept confidential;

(5) The right to communicate privately with an attorney or other advocate;

(6) The right to petition the court to modify or terminate the guardianship, including the right to meet privately with an attorney or other advocate to assist with this legal procedure, as well as the right to petition for access to funds to cover legal fees and costs; and

(7) The right to request the court to review the guardian's actions, request removal and replacement of the guardian, and/or request that the court restore rights as provided in *N.J.S.A.* 3B:12-28.

(b) [On the commencement of a separate summary action by the incapacitated person or an interested person on his or her behalf, supported by affidavit and setting forth facts evidencing that the previously incapacitated person no longer is incapacitated or has returned to partial capacity, the court shall, on notice to the persons who would be set forth in a complaint filed pursuant to *Rule* 4:86-1, set a date for hearing, take oral testimony in open court with or without a jury, and may render judgment that the person no longer is fully or partially incapacitated, that his or her guardianship be modified or discharged subject to the duty to account, and that his or her person and estate be restored to his or her control, or render judgment that the guardianship be modified but not terminated.] An incapacitated person, or an interested

person on his or her behalf, may seek a return to full or partial capacity by commencing a separate summary action by verified complaint. The complaint shall be supported by affidavits or certifications as described in *Rule* 4:86-2(b)(2), and shall set forth facts evidencing that the previously incapacitated person no longer is incapacitated or has returned to partial capacity. The court shall, on notice to the persons who would be set forth in a complaint filed pursuant to *Rule* 4:86-1, set a date for hearing and take oral testimony in open court with or without a jury. The court may render judgment that the person no longer is fully or partially incapacitated, that his or her guardianship be modified or discharged subject to the duty to account, and that his or her person and estate be restored to his or her control, or may render judgment that the guardianship be modified but not terminated.

(c) An incapacitated person, or an interested person on his or her behalf, may seek review of a guardian's conduct and/or review of a guardianship by filing a motion setting forth the basis for the relief requested.

Note: Source — *R.R.* 4:102-7; former *R.* 4:83-7 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; caption and text amended July 12, 2002 to be effective September 3, 2002; caption and text amended July 9, 2008 to be effective September 1, 2008; caption and text of former rule deleted, new caption adopted, new paragraphs (a), (b), and (c) adopted August 1, 2016 to be effective September 1, 2016.

4:86-9. Guardians for Incapacitated Persons Under Uniform Veterans Guardianship Law

(a) Complaint for Appointment. An action for the appointment of a guardian under *N.J.S.A.* 3B:13-1 *et seq.* for [a ward] an alleged [to be a] incapacitated person shall be brought in the Superior Court by any person entitled to priority of appointment. If there is no person so entitled or if the person so entitled fails or refuses to commence the action within 30 days after the mailing of notice by a federal agency to the last known address of such person entitled to priority of appointment, indicating the necessity for the appointment, the action may be brought by any person residing in this State, acting on the [ward's] alleged incapacitated person's behalf.

(b) Complaint. The complaint shall state (1) the name, age and place of residence of the [ward] alleged incapacitated person; (2) the name and place of residence of the nearest relative, if known; (3) the name and address of the person or institution, if any, having custody of the [ward] alleged incapacitated person; (4) that such [ward] alleged incapacitated person is entitled to receive money payable by or through a federal agency; (5) the amount of money due and the amount of probable future payments; and (6) that the [ward] alleged incapacitated person has been rated [a] an incapacitated person on examination by a federal agency in accordance with the laws regulating the same.

(c) Proof of Necessity for Guardian of [Mentally] Incapacitated Person. A certificate by the chief officer, or his or her representative, stating the fact that the [ward] alleged incapacitated person has been rated [a mentally] an incapacitated person by a federal agency on examination in accordance with the laws and regulations governing such agency and that appointment is a condition precedent to the payment of money due the [ward] alleged incapacitated person by such agency shall be prima facie evidence of the necessity for making an appointment under this rule.

(d) Determination of [Mental] Incapacity. [Mental i]Incapacity may be determined on the certificates, without other evidence, of two medical officers of the military service, or of a federal agency, certifying that by reason of [mental] incapacity the [ward] alleged incapacitated person is incapable of managing his or her property, or certifying to such other facts as shall satisfy the court as to such [mental] incapacity.

(e) Appointment of Guardian; Bond. Upon proof of notice duly given and a determination of [mental] incapacity, the court may appoint a proper person to be the guardian and fix the amount of the bond. The bond shall be in an amount not less than that which will be due or become payable to the [ward] incapacitated person in the ensuing year. The court may from time to time require additional security. Before letters of guardianship shall issue, the guardian shall accept the appointment in accordance with *R*. 4:96-1.

(f) Termination of Guardianship When [Ward] Incapacitated Person Regains [Mental] Capacity. If the court has appointed a guardian for the estate of [a ward] an incapacitated person, it may subsequently, on due notice, declare the [ward] incapacitated person to have regained [mental] capacity on proof of a finding and determination to that effect by the medical authorities of the military service or federal agency or based on such other facts as shall satisfy the court as to the [mental] capacity of the [ward] incapacitated person. The court may thereupon discharge the guardian without further proceedings, subject to the settlement of his or her account.

(g) Complaint in Action to Have Guardian Receive Additional Personalty. The complaint in an action to authorize the guardian, pursuant to law, to receive personal property from any source other than the United States Government shall set forth the amount of such

property and the name and address of the person or institution having actual custody of the [ward] incapacitated person.

(h) ...no change.

Note: Source — *R.R.* 4:102-9(a) (b) (c) (d) (e) (f) (g) (h), 4:103-3 (second sentence). Paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraphs (a) through (f) and (h) of former R. 4:83-9 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; caption amended, paragraphs (a) and (b) amended, paragraphs (c) and (d) captions and text amended, paragraph (e) amended, and paragraph (f) caption and text amended July 12, 2002 to be effective September 3, 2002; paragraphs (a), (b), (e), and (g) amended, and paragraphs (c), (d), and (f) caption and text amended August 1, 2016 to be effective September 1, 2016.

4:86-10. Appointment of Guardian for Persons Eligible for and/or Receiving Services from the Division of Developmental Disabilities

An action pursuant to *N.J.S.A.* 30:4-165.7 *et seq.* for the appointment of a guardian for a person over the age of 18 who is eligible for and/or receiving services from the Division of Developmental Disabilities shall be brought pursuant to these rules insofar as applicable, except that:

(a) ...no change.

(b) In lieu of the affidavits or certifications prescribed by *R.* 4:86-2, the verified complaint shall have annexed thereto two [affidavits] documents. One [affidavit] document shall be an affidavit or certification submitted by a practicing physician or a psychologist licensed pursuant to P.L. 1966, c.282 (N.J.S.A. 45:14B-1 *et seq.*) who has made a personal examination of the alleged incapacitated person not more than six months prior to the filing of the verified complaint. The other document shall be one of the following: (1) an affidavit or certification from the chief executive officer, medical director or other officer having administrative control over a Division of Developmental Disabilities program from which the individual is receiving functional or other services; (2) an affidavit or certification from a designee of the Division of Developmental Disabilities having personal knowledge of the functional capacity of the individual who is the subject of the guardianship action; (3) a second affidavit or certification from a practicing physician or psychologist licensed pursuant to P.L. 1966, c.282 (N.J.S.A. 45:14B-1 *et seq.*); (4) a copy of the Individualized Education Program, including any medical or other reports, for the individual who is subject to the guardianship action, which shall have been prepared no more than two years prior to the filing of the verified complaint; or (5) an affidavit

or certification from a licensed care professional having personal knowledge of the functional capacity of the individual who is the subject of the guardianship action. The documents [servicing the alleged mentally incapacitated person and the other shall be submitted by a physician licensed to practice in New Jersey or a psychologist licensed pursuant to *N.J.S.A.* 45:14B-1, *et seq*. The affidavit] shall set forth with particularity the facts supporting the belief that the alleged incapacitated person suffers from a significant chronic functional impairment to such a degree that [alleged mentally incapacitated person's significant chronic functional impairment, as that item is defined in *N.J.S.A.* 30:4-165.8, and the facts supporting the affiant's belief that as a result thereof,] the person lacks the cognitive capacity either to make decisions or to communicate, in any way, decisions to others.

(c) If the petition seeks guardianship of the person only, the Division of Mental Health Advocacy, in the Office of the Public Defender, if available, shall be appointed as attorney for the alleged [mentally] incapacitated person, as required by *R.* 4:86-4. If the Division of Mental Health Advocacy, in the Office of the Public Defender, is unavailable or if the petition seeks guardianship of the person and the estate, the court shall appoint an attorney to represent the alleged [mentally] incapacitated person. The attorney for the alleged [mentally] incapacitated person may where appropriate retain an independent expert to render an opinion respecting the [mental] incapacity of the alleged [mentally] incapacitated person.

(d) The hearing shall be held pursuant to *R.* 4:86-6 except that a guardian may be summarily appointed if the attorney for the alleged [mentally] incapacitated person, by affidavit or certification, does not dispute either the need for the guardianship or the fitness of the proposed guardian and if a plenary hearing is not requested either by the alleged [mentally] incapacitated person or on his or her behalf.

Note: Adopted July 7, 1971 to be effective September 13, 1971; amended July 24, 1978 to be effective September 11, 1978. Former rule deleted and new rule adopted November 5, 1986 to be effective January 1, 1987; caption amended and paragraphs (b), (c) and (d) of former R. 4:83-10 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (c) amended June 28, 1996 to be effective September 1, 1996; paragraphs (b), (c) and (d) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 28, 2004 to be effective September 1, 2004; paragraph (c) amended July 9, 2008 to be effective September 1, 2008; paragraph (c) amended July 22, 2014 to be effective September 1, 2014; caption amended, introductory paragraph and paragraphs (b), (c) and (d) amended August 1, 2016 to be effective September 1, 2016.

5:21-3. Detention Hearings

(a) Initial Detention Hearing. . . . no change.

(b) Probable Cause Hearing. If the juvenile is detained following the initial detention hearing, the court shall conduct a probable cause hearing within two court days after the initial hearing. Where a second detention hearing is required by paragraph (a), it shall be held with the probable cause hearing. [If the prosecutor has filed a motion seeking waiver of jurisdiction pursuant to Rule 5:22-2 or indicates an intention to file such a motion, or the court determines based on the circumstances that such a motion is likely, the court shall permit the parties to present evidence regarding the issues of age of the juvenile and other standards for referral which may be addressed at the time of the probable cause hearing.] If the court determines that there is no probable cause to believe that the juvenile has committed the conduct alleged in the complaint, the juvenile shall be forthwith released. If probable cause is found, detention review hearings shall be conducted as provided in paragraph (c).

(c) Detention Review Hearing. . . . no change.

(d) Findings. . . . no change.

(e) Credit for Time Served. . . . no change.

Note: Source-R.R. (1969) 5:8-2(c) and (d); R. (1969) 5:8-6(d). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (e) adopted November 1, 1985 to be effective January 2, 1986; paragraph (b) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (e) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended August 1, 2016 to be effective September 1, 2016.

5:22-2. Waiver of Jurisdiction and Referral without the Juvenile's Consent

(a) Motion for Waiver of Jurisdiction and Referral. A motion seeking waiver of jurisdiction by the Family Part shall be filed by the prosecutor within [30] 60 days after the receipt of the complaint, which time may [shall not] be extended [except] for good cause shown. The motion shall be accompanied by a written statement of reasons clearly setting forth the facts used in assessing all factors contained in N.J.S.A. 2A:4A-26.1 et seq., together with an explanation as to how evaluation of those facts support waiver for the particular juvenile.

(b) [Probable Cause; Evidence] Waiver Hearing. At the waiver [referral] hearing, the court shall receive the evidence offered by the State and by the juvenile [, limited to the issue of probable cause]. No testimony of a juvenile at a hearing to determine referral by this rule shall be admissible for any purpose in any subsequent hearing to determine delinquency or guilt of any offense. The court also shall permit cross-examination of any witnesses. The State shall provide proof to satisfy the requirements of N.J.S.A. 2A:4A-26.1(c)(1) with respect to the age of the juvenile and N.J.S.A. 2A:4A-26.1(c)(2) with respect to probable cause to believe that the juvenile committed one of the enumerated delinquent acts. The court also shall review whether the State considered the factors set forth in N.J.S.A. 2A:4A-26.1(c)(3). [The court also shall permit cross-examination of any witnesses.]

(c) Factors to be Considered. The court may deny a motion by the prosecutor to waive jurisdiction of a juvenile delinquency case if it is clearly convinced that the prosecutor abused his or her discretion in considering the factors set forth within N.J.S.A. 2A:4A-26.1(c)(3).

[(c)] (d) Standards for Referral. The court shall waive jurisdiction of a juvenile delinquency action without the juvenile's consent and shall refer the action to the appropriate

court and prosecuting authority having jurisdiction pursuant to N.J.S.A. 2A:4A-26.1(c). [under the following circumstances:]

[(1) Judicial Discretion for Juveniles Age 14 or Older and Charged with a Chart 2 Offense. The juvenile must have been 14 years of age or older at the time of the alleged delinquent act and there must be probable cause to believe that he or she committed a delinquent act which if committed by an adult would constitute:]

[(A) a crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted of:]

[1. criminal homicide, other than death by auto; or]

[2. strict liability for drug-induced deaths (N.J.S.A. 2C:35-9); or]

[3. first degree robbery; or]

[4. carjacking; or]

[5. aggravated sexual assault; or]

[6. sexual assault; or]

[7. second degree aggravated assault; or]

[8. kidnapping; or]

[9. aggravated arson; or]

[(B) a crime committed at a time when the juvenile had previously been sentenced to and confined in an adult penal institution; or]

[(C) an offense against a person committed in an aggressive, violent, and willful manner, other than a Chart 1 offense enumerated in N.J.S.A. 2A:4A-26a(2)(a); or the unlawful possession of a firearm, destructive device or other prohibited weapon; or arson; or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic,

hallucinogenic, or habit-producing drug; or an attempt or conspiracy to commit any of these crimes; or]

[(D) a violation of N.J.S.A. 2C:35-3 (Leader of a Narcotics Trafficking Network), N.J.S.A. 2C:35-4 (Maintaining and Operating a CDS Production Facility), N.J.S.A. 2C:35-5 (Manufacturing, Distributing or Dispensing Narcotics), or an attempt or conspiracy to commit any of these crimes, other than where the violation, attempt or conspiracy involves the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any school property or within 1000 feet of such school property; or]

[(E) a crime or crimes that are part of a continuing criminal activity in concert with two or more persons, when the circumstances show that the juvenile has knowingly devoted himself or herself to criminal activity as a source of livelihood; or]

[(F) theft of an automobile.]

[On a finding of probable cause for any of the offenses enumerated above, the burden is on the prosecution to show that the nature and circumstances of the charge or the juvenile's prior record are sufficiently serious that the interests of the public require waiver. Waiver shall not be granted, however, if the juvenile can show that the probability of his or her rehabilitation prior to reaching the age of 19 by use of the procedures, services, and facilities available to the court substantially outweighs the reasons for waiver.]

[(2) Judicial Discretion for Juveniles Age 14 or 15 and Charged with a Chart 1 Offense or with Certain Drug Offenses Committed Within a School Zone. The juvenile must have been 14 or 15 years old at the time of the alleged delinquent act and there must be probable cause to believe that he or she committed a delinquent act that if committed by an adult would constitute]

[(A) criminal homicide, other than death by auto; or strict liability for drug-induced deaths; or first degree robbery; or carjacking; or aggravated sexual assault; or sexual assault; or second degree aggravated assault; or kidnapping; or aggravated arson; or an attempt or conspiracy to commit any of these crimes; or]

[(B) possession of a firearm with a purpose to use it unlawfully against the person of another under subsection (a) of N.J.S.A. 2C:39-4, or possession of a firearm while committing or attempting to commit, including the immediate flight therefrom, aggravated assault, aggravated criminal sexual contact, burglary or escape; or]

[(C) a violation of N.J.S.A. 2C:35-3 (Leader of a Narcotics Trafficking Network), N.J.S.A. 2C:35-4 (Maintaining and Operating a CDS Production Facility), N.J.S.A. 2C:35-5 (Manufacturing, Distributing or Dispensing Narcotics), or an attempt or conspiracy to commit any of these crimes; and which violation, attempt or conspiracy involves the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any school property or within 1000 feet of such school property; or]

[(D) computer activity that would be a crime of the first or second degree pursuant to section 4 or section 10 of P.L.1984, c.184 (N.J.S.A. 2C:20-25 or 2C:20-31).]

[On a finding of probable cause for any of these enumerated offenses, there is a rebuttable presumption that waiver will occur. The juvenile can rebut this presumption only by demonstrating that the probability of his or her rehabilitation prior to reaching the age of 19 by use of the procedures, services or facilities available to the court substantially outweighs the reasons for waiver.]

[(3) Prosecutorial Discretion for Juveniles Age 16 or Older and Charged with a Chart 1 Offense or Certain Other Enumerated Offenses. The juvenile must have been 16 years of age or

older at the time of the alleged delinquent act and there must be probable cause to believe that he or she committed a delinquent act that if committed by an adult would constitute]

[(A) criminal homicide, other than death by auto; or strict liability for drug-induced deaths; or first degree robbery; or carjacking; or aggravated sexual assault; or sexual assault; or second degree aggravated assault; or kidnapping; or aggravated arson; or]

[(B) possession of a firearm with a purpose to use it unlawfully against the person of another under subsection (a) of N.J.S.A. 2C:39-4, or possession of a firearm while committing or attempting to commit, including the immediate flight therefrom, aggravated assault, aggravated criminal sexual contact, burglary or escape; or]

[(C) a violation of N.J.S.A. 2C:35-3 (Leader of a Narcotics Trafficking Network), N.J.S.A. 2C:35-4 (Maintaining and Operating a CDS Production Facility), or N.J.S.A. 2C:39-4.1 (Weapons Possession While Committing Certain CDS Offenses); or]

[(D) computer activity that would be a crime of the first or second degree pursuant to section 4 or section 10 of P.L.1984, c.184 (N.J.S.A. 2C:20-25 or C.2C:20-31).]

[On a finding of probable cause for any of these enumerated offenses, no additional showing is required for waiver to occur. Jurisdiction of the case shall be transferred immediately.]

[(4) Judicial Discretion for Juveniles Age 16 or 17 and Charged with Certain Drug Offenses Committed Within a School Zone. The juvenile must have been 16 years of age or older at the time of the alleged delinquent act and there must be probable cause to believe that he or she committed a delinquent act that if committed by an adult would constitute]

[(A) a violation of N.J.S.A. 2C:35-5 (Manufacturing, Distributing or Dispensing Narcotics), or an attempt or conspiracy to commit this crime; and which violation, attempt or

conspiracy involves the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on school property or within 1000 feet of such school property.]

[On a finding of probable cause for any such offense, there is a rebuttable presumption that waiver will occur. The juvenile can rebut this presumption only by demonstrating that the probability of his or her rehabilitation prior to reaching the age of 19 by use of the procedures, services and facilities available to the court substantially outweighs the reasons for waiver.]

(e) [(d)] Order to Waive Jurisdiction and for Referral [of Reference]. An order waiving jurisdiction of the case and referring [a] the case to the appropriate court and prosecuting authority [and] shall [incorporate] specify therein [not only] the alleged act or acts upon which the referral is based, [but] and all other delinquent acts charged against the juvenile arising out of or related to the same transaction.

[(e) Admissibility of Testimony Given at Referral Hearing. No testimony of a juvenile at a hearing to determine referral by this rule shall be admissible for any purpose in any subsequent hearing to determine delinquency or guilt of any offense.]

Note: Source-R.R. (1969) 5:9-5(b), (c). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b)(2)(E) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a), (b)(2)(F) and (b)(4) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b)(2)(D), (E) and (F) amended, paragraph (b)(2)(G) adopted June 28, 1996 to be effective September 1, 1996; paragraphs (b) and (b)(1) amended, former paragraphs (b)(2), (b)(3), and (b)(4) deleted, new paragraphs (b)(2), (b)(3), and (b)(4) added July 10, 2002 to be effective September 3, 2002; paragraphs (b)(2)(B) and (b)(2)(C) amended, new paragraph (b)(2)(D) adopted, paragraph (b)(3) caption amended, paragraphs (b)(3)(B) and (b)(3)(C) amended, new paragraph (b)(3)(D) adopted July 28, 2004 to be effective September 1, 2004; new paragraph (b) added, and former paragraphs (b), (c), (d) redesignated as paragraphs (c), (d), (e) June 15, 2007 to be effective September 1, 2007; caption amended, paragraphs (a) and (b) caption and text amended, new paragraph (c) adopted, former paragraph (c) redesignated as paragraph (d) and text amended, former paragraph (d) redesignated as paragraph (e) and caption and text amended, former paragraph (e) deleted with text relocated to paragraph (b) August 1, 2016 to be effective September 1, 2016.

5:22-3. Detention Hearing after Referral

When a case is referred to another court as provided by R. 5:22-1 or R. 5:22-2, the court waiving jurisdiction shall, on hearing, determine pursuant to [the criteria set forth in] N.J.S.A. 2A:4A-36[(a)], whether detention is necessary [the juvenile, if in custody pending trial, shall be confined in an adult or juvenile detention facility]. If detention is deemed necessary, there shall be a presumption that the juvenile shall be detained in a county juvenile detention facility, unless good cause is shown that it is necessary to detain the juvenile in a county jail or other county correctional facility in which adults are incarcerated. In no case shall a juvenile be remanded to an adult detention facility prior to the hearing provided for herein.

Note: Source-R.R. (1969) 5:9-5(d). Adopted December 20, 1983, to be effective December 31, 1983; caption and text amended November 5, 1986 to be effective January 1, 1987; amended August 1, 2016 to be effective September 1, 2016.

5:22-4. Proceedings After [Transfer] Waiver

(a) Procedure. Whenever a juvenile [case] is referred to another court as provided by R. 5:22-1 or R. 5:22-2, the action shall proceed in the same manner as if it has been instituted in that court in the first instance[.], and shall be subject to the sentencing provisions available to that court.

(b) Custodial Sentence Upon Conviction. Upon conviction for any offense that is subject to waiver pursuant to N.J.S.A. 2A:4A-26.1(c)(2), there shall be a presumption that the juvenile shall serve any custodial sentence imposed in a State juvenile facility operated by the Juvenile Justice Commission until the juvenile reaches the age of 21, except as provided in N.J.S.A. 2A:4A-26.1(f).

Note: Source-R.R. (1969) 5:9-5(e). Adopted December 20, 1983, to be effective December 31, 1983; caption amended, text amended and designated as paragraph (a) with caption added, and new paragraph (b) adopted August 1, 2016 to be effective September 1, 2016.

5:22-5. Remand to the Family Part

(a) Remand with Consent of Parties. With the consent of the juvenile defendant and the prosecutor, at any point in the proceedings subsequent to the decision ordering waiver, the Criminal Division may remand to the Family Part if it appears that:

(1) the interests of the public and the best interests of the juvenile require access to programs or procedures uniquely available in the Family Part; and

(2) the interests of the public are no longer served by waiver.

(b) Remand for Conviction of Non-Waivable Offense. If a juvenile is not convicted of an offense set forth in N.J.S.A. 2A:4A-26.1(c)(2), a conviction for any other offense shall be deemed a juvenile adjudication and be remanded to the Family Part for disposition, in accordance with the dispositional options available to the Family Part and all records related to the act of delinquency shall be subject to the provisions of section 1 of P.L. 1982, c.79 (C.2A:4A-60).

Note: Adopted August 1, 2016 to be effective September 1, 2016.

6:1-1. Scope and Applicability of Rules

The rules in Part VI govern the practice and procedure in the Special Civil Part, heretofore established within and by this rule continued in the Law Division of the Superior Court.

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

(f) ... no change.

(g) Forms. The forms contained in Appendix XI to these rules are approved and, except as otherwise provided in R. 6:2-1 (form of summons), R. 6:7-1(a) (execution against goods and chattels and wage execution) and R. 6:7-2(b) through (g) (information subpoena), suggested for use in the Special Civil Part. Samples of each form shall be made available to litigants by the Clerk of the Special Civil Part.

Note: Caption amended and paragraphs (a) through (g) adopted November 7, 1988 to be effective January 2, 1989; paragraph (c) amended July 17, 1991 to be effective immediately; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 12, 2002 to be effective September 3, 2002; paragraph (c) amended July 27, 2006 to be effective September 1, 2006; paragraphs (e) and (g) amended July 9, 2008 to be effective September 1, 2008; paragraph (e) amended July 19, 2012 to be effective September 4, 2012; paragraph (g) amended August 1, 2016 to be effective September 1, 2016.

6:1-3. Venue

(a) Where Laid. Except as otherwise provided by statute, venue in actions in the Special Civil Part and the Small Claims Section shall be laid in the county in which at least one defendant in the action resides. 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. Except as otherwise provided by statute, venue in landlord and tenant actions shall be laid in the county where the rental premises is located and [A] actions for the recovery of a security deposit may be brought in the county where the property is situated. If all defendants are non-residents of this state, venue shall be laid in the county in which the cause of action arose.

(b) ... no change.

Note: Adopted November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

6:2-1. Form of Summons

The form of the summons shall conform with the requirements of R. 4:4-2 and shall be in the form set forth in Appendix XI-A(1) to these Rules or, for small claims, in the form set forth in Appendix XI-A(2) or, for tenancy actions, in the form set forth in Appendix XI-B. However in landlord and tenant actions for the recovery of premises, summary ejectment and unlawful entry and detainer actions, and actions in the Small Claims Section, in lieu of directing the defendant to file an answer, the summons or signed order to show cause used as original process, shall require the defendant to appear and state a defense at a certain time and place, to be therein specified, which time shall be not less than 10 days in summary dispossess actions and not less than 5 business days in small claims, nor more than 30 days from the date of service of the summons, and shall notify the defendant that upon failure to do so, judgment by default may be rendered for the relief demanded in the complaint.

Note: Source-R.R. 7:4-1(a) (b), 7:17-2. Amended July 16, 1979 to be effective September 10, 1979; amended July 15, 1982 to be effective September 13, 1982; amended November 7, 1988 to be effective January 2, 1989; amended July 10, 1998 to be effective September 1, 1998; amended July 5, 2000 to be effective September 5, 2000; amended July 12, 2002 to be effective September 3, 2002; amended August 1, 2016, to be effective September 1, 2016.

6:2-3. Service of Process

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) Service by Mail Program. If the process is to be served in this State, or if substituted service of process is to be made within this State:

(1) Initial Service. The clerk of the court shall simultaneously mail such process by both certified and ordinary mail. A plaintiff or attorney [Attorneys] shall submit to the clerk the mailing addresses of parties to be served and the appropriate number of copies of the summons and complaint. The clerk shall furnish postage, envelopes, and return receipts and shall address same. Mail service on each defendant shall be placed in separate envelopes by the clerk regardless of marital status or address. Process shall be mailed within 12 days of the filing of the complaint. The clerk thereafter shall send a postcard to plaintiff or the attorney showing the docket number, date of mailing and a statement that, unless the plaintiff is otherwise notified, default will be entered on the date shown. If service cannot be effected by mail, the clerk shall send a second card to the plaintiff or attorney stating the reasons for incomplete service and requesting instructions for reservice.

(2) ... no change.

(3) ... no change.

(4) ... no change.

(5) ... no change.

(e) ... no change.

Note: Source R.R. 7:4-6(a)(b) (first three sentences), 7:4-7. Paragraph (a) amended July 7, 1971 effective September 13, 1971; paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended November 27, 1974 to be effective April 1, 1975; paragraphs (a)(b) amended July 17, 1975 to be effective September 8, 1975; paragraph (a) amended July 16, 1979 to be effective September 10, 1979; paragraph (a) amended July 21, 1980 to be effective September 8, 1980; paragraph (b) amended July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and paragraph (d) adopted November 5, 1986 to be effective January 1, 1987; paragraph (c) amended November 7, 1988 to be effective January 2, 1989; paragraphs (b) and (d) amended June 29, 1990 to be effective September 4, 1990; paragraph (d) amended July 17, 1991 to be effective immediately; paragraph (e) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (e) amended July 13, 1994 to be effective September 1, 1994; paragraph (d)(4) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a), (b), (d), (d)(2), and (e) amended July 12, 2002 to be effective September 3, 2002; paragraphs (b), d(4), and (5) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 23, 2010 to be effective September 1, 2010; subparagraph (d)(2) amended July 19, 2012 to be effective September 4, 2012; paragraph (d)(1) amended August 1, 2016 to be effective September 1, 2016.

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.

6:4-1. Transfer of Actions

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

(f) Fees on Transfer to Special Civil Part. If [the plaintiff] a party in an action transferred to the Special Civil Part thereafter prevails, [$15.00 of] the filing fees paid by that party to the [clerk of the] court from which the action was transferred [shall] may be taxed as part of the costs whether the transfer was to the Special Civil Part of the same or another county.

(g) ... no change.

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.

6:6-2. Entry of Default and Automatic Vacation Thereof

When a party against whom affirmative relief is sought has failed to appear, plead or otherwise defend as provided by law or these rules, or has failed to appear at the time fixed for trial, or if the party's answer is stricken on order of the court, the clerk shall enter the party's default. A party against whom a default has been entered for failure to plead or enter an appearance may have same automatically removed by the clerk provided there is filed with the clerk within 30 days of its entry a written application with the consent of the adversary endorsed thereon consenting to the vacation of the default, which application shall include [have annexed thereto] the answer or other responsive pleading of the party in default and its filing fee.

Note: Source-R.R. 7:9-1; caption and text amended November 2, 1987 to be effective January 1, 1988; amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

6:6-3. Judgment by Default

(a) Entry by the Clerk; Judgment for Money. If the plaintiff's claim against a defendant is for a sum certain or for a sum that can by computation be made certain, the clerk on request of the plaintiff and on affidavit setting forth a particular statement of the items of the claim, the amounts and dates, the calculated amount of interest, the payments or credits, if any, the net amount due, and the name of the original creditor if the claim was acquired by assignment, shall enter judgment for the net amount and costs against the defendant, if a default has been entered against the defendant for failure to appear and the defendant is not a minor or mentally incapacitated person. If prejudgment interest is demanded in the complaint the clerk shall add that interest to the amount due provided the affidavit of proof states the date of defendant's breach and the amount of such interest. If the judgment is based on a document of obligation that provides a rate of interest, prejudgment interest shall be calculated in accordance therewith; otherwise it shall be calculated in accordance with R. 4:42-11(a). If a statute provides for a maximum fixed amount as an attorney fee, contractual or otherwise, and if the amount of the fee sought is specified in the complaint, the clerk shall add it to the amount due, provided that in lieu of the affidavit of services prescribed by R. 4:42-9(b) the attorney files a certification that sets forth the amount of the fee sought, how the amount was calculated, and specifies the statutory provision and, where applicable, the contractual provision that provides for the fixed amount. If the claim is founded on a note, contract, check, or bill of exchange or is evidenced by entries in the plaintiff's book of account, or other records, a copy thereof shall be attached to the affidavit. The clerk may require for inspection the originals of such documents. The affidavit shall contain or be supported by a separate affidavit containing a statement, by or on behalf of the applicant for a default judgment, that sets forth the source of the address used for service of the summons

and complaint. The affidavit prescribed by this Rule shall be sworn to not more than 30 days prior to its presentation to the clerk and, if not made by plaintiff, shall show that the affiant is authorized to make it.

In any action to collect an assigned claim, plaintiff/creditor shall submit a separate affidavit certifying 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.

If plaintiff's records are maintained electronically and the claim is founded on an open-end credit plan, as defined in 15 U.S.C. §1602(i) and 12 C.F.R. §10226.2(a)(20), a copy of the periodic statement for the last billing cycle, as prescribed by 15 U.S.C. §1637(b) and 12 C.F.R. §10226.7, or a computer-generated report setting forth the previous balance, identification of transactions and credits, if any, periodic rates, balance on which the finance charge is computed, the amount of the finance charge, the annual percentage rate, other charges, if any, the closing date of the billing cycle, and the new balance, if attached to the affidavit, shall be sufficient to support the entry of judgment.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) . . . no change.

Note: Source — R.R. 7:9-2(a) (b), 7:9-4. Paragraphs (a) and (d) amended June 29, 1973 to be effective September 10, 1973; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (c)

amended June 29, 1990 to be effective September 4, 1990; paragraphs (a), (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a), (b), and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 18, 2001 to be effective November 1, 2001; paragraphs (a), (b), and (c) amended, and new paragraph (e) added July 12, 2002 to be effective September 3, 2002; paragraphs (a) and (d) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 27, 2006 to be effective September 1, 2006; paragraph (d) amended July 9, 2008 to be effective September 1, 2008; paragraph (a) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended July 22, 2014 to be effective September 1, 2014; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

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 in 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) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

(f) ... no change.

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.

6:12-3. Supporting Personnel

(a) Officers' Bonds; Fiscal Accounts. All officers executing writs issued out of the Special Civil Part upon which money may be collected shall, before entering upon the discharge of their duties, file in the office of the deputy clerk a bond in such sum and form as prescribed by the Administrative Director of the Courts. Such officers shall maintain such fiscal records, subject to such audit, as the Administrative Director of the Courts prescribes.

(b) ... no change.

Note: Source — R.R. 7:21-4, 7:21-5; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended August 1, 2016 effective September 1, 2016.

8:3-4. Contents of Complaint, Generally

(a) ...no change

(b) ...no change

(c) ...no change

(d) Small Claims Classification.

(1) In state tax cases the complaint shall state whether the [amount of refund claimed or the taxes or additional taxes sought to be set aside or the] amount in controversy [, as the case may be, with respect to any year,] exceeds the [sum of $5,000 exclusive of interest and penalties] jurisdictional amount in Rule 8:11(a)(1).

(2) ...no change

(e) ...no change

(f) ...no change

Note: Adopted June 20, 1979 to be effective July 1, 1979. Paragraphs (a) and (d) amended July 15, 1982 to be effective September 13, 1982; paragraph (e) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (b) and (c) amended July 5, 2000 to be effective September 5, 2000; subparagraphs (c)(1) and (c)(2) amended July 23, 2010 to be effective September 1, 2010; paragraph (a) caption and text amended, new paragraph (b) adopted, former paragraph (b) redesignated as paragraph (c) and amended, paragraphs (c), (d), and (e) redesignated as paragraphs (d), (e), and (f) July 22, 2014 to be effective September 1, 2014; paragraph (d)(1) amended August 1, 2016 to be effective September 1, 2016.

8:4-3. Time for Filing Responsive Pleadings

The time for filing all pleadings other than the complaint, including answers to complaints filed under the Correction of Errors Law, N.J.S.A. 54:51A-7, shall be as prescribed by R. 4:6-1 and subject to R. 1:3-3 except that:

(a) ...no change

(b) ...no change

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 16, 1981 to be effective September 14, 1981; amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; initial paragraph amended August 1, 2016 to be effective September 1, 2016.

8:5-3. On Whom Served.

(a) Review of Action of a County Board of Taxation or Direct Review by the Tax Court.

(1) ...no change

(2) ...no change

(3) ...no change

(4) ...no change

(5) ...no change

(i) ...no change

(ii) ...no change

(iii) ...no change

(6) ...no change

(7) ...no change

(8) A [tenant] plaintiff who is not the record owner of a property who files a complaint to contest a local property tax assessment, whether such complaint is by direct review pursuant to N.J.S.A. 54:3-21, 54:4-63.11, 54:4-63.28, or 54:4-63.39, or to review the action of a County Board of Taxation pursuant to N.J.S.A. 54:51A-1, shall caption the complaint with the name of the record owner of the property, the name of the plaintiff, and the relationship of the plaintiff to the record owner of the property. In such cases, the plaintiff shall serve a copy of the complaint, as well as any counterclaim, on the record owner of the property. The court, on application or on its own motion, may permit the owner to intervene as a party plaintiff, may require service on other tenants, or may take such action as it deems appropriate under the circumstances.

(b) ...no change

(1) ...no change

(2) ...no change

(3) ...no change

(4) ...no change

(c) ...no change

Note: Adopted June 20, 1979 to be effective July 1, 1979. Paragraph (a)(7) adopted and paragraphs (b)(1) and (2) amended July 8, 1980 to be effective July 15, 1980; paragraphs (a)(1), (2), (3) and (7) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(5) amended and paragraph (b)(4) adopted July 22, 1983 to be effective September 12, 1983; paragraph (a)(3) amended and paragraph (a)(8) adopted November 7, 1988 to be effective January 2, 1989; paragraph (a) caption and paragraphs (a)(7) and (8) amended and paragraph (c) adopted June 29, 1990 to be effective September 4, 1990; paragraph (a)(5) amended July 14, 1992 to be effective September 1, 1992; paragraph (a)(1) amended July 13, 1994; paragraph (b)(1) amended July 12, 2002 to be effective September 3, 2002; paragraphs (a)(7) and (a)(8) amended July 27, 2006 to be effective September 1, 2006; paragraph (b)(1) amended July 9, 2008 to be effective September 1, 2008; subparagraphs (a)(5)(ii) and (a)(7) amended July 19, 2012 to be effective September 4, 2012; paragraph (a)(8) amended August 1, 2016 to be effective September 1, 2016.

8:5-5. Proof of Service

Proof of service shall be submitted at the time a complaint is filed unless service is by mail and is not effected initially, in which case subsequent proof of service by simultaneous mailing by certified or registered mail, return receipt requested, and ordinary mail shall be submitted when service is effected. For purposes of R. 8:5-3(a)(8), a plaintiff who is not the record owner of the property shall also file a proof of service of the counterclaim, if any, when the same is served by plaintiff on the record owner of the property. Such proof should include the date of service, the method of service utilized, and the name and address of the record owner of the property served.

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended November 2, 1987 to be effective January 1, 1988; amended June 29, 1990 to be effective September 4, 1990; amended August 1, 2016 to be effective September 1, 2016.

8:9-1. Form of Judgment

The final determination of any matter heard by the Tax Court shall be by a judgment signed by the Court or by the Tax Court Administrator acting under the Court's direction. An interlocutory determination shall be by an order signed by the Court. Any proposed form of order shall provide the following language whereby the Tax Court may indicate whether the order constitutes a final judgment: "This order is a final judgment from which the time to file an appeal shall begin to run: Yes [ ] No [ ]." Where a standard form of judgment is in use by the Tax Court, the judgment shall be in accordance with the form unless a party shall request a change in the form prior to the issuance of the judgment, in which case the form shall be settled and then submitted to the Court in accordance with R. 4:42-1.

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 14, 1992 to be effective September 1, 1992; amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

8:11. Small Claims Division; Practice and Procedure

(a)(1) The small claims division will hear all state tax cases in which the amount of refund claimed or the taxes or additional taxes sought to be set aside with respect to any year for which the amount in controversy as alleged in the complaint does not exceed the sum of $5,000 exclusive of interest and penalties; provided, however, that if there is no tax in controversy, the jurisdictional amount will be applied to interest and penalties. This provision will not apply to State tax cases where no actual tax amount due is yet specified (for example, in nexus cases where no tax returns have yet been filed).

(2) ...no change

(b) ...no change

(c) ...no change

(d) ...no change

(e) ...no change

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 22, 1983 to be effective September 12, 1983; amended November 5, 1986 to be effective January 1, 1987; amended November 7, 1988 to be effective January 2, 1989; amended July 13, 1994 to be effective September 1, 1994; amended July 5, 2000 to be effective September 5, 2000; amended July 28, 2004 to be effective September 1, 2004; paragraph letters added, paragraphs (a), (b), (c), and (e) amended July 9, 2008 to be effective September 1, 2008; paragraphs (a) and (e) amended July 23, 2010 to be effective September 1, 2010; paragraph (a)(1) amended August 1, 2016 to be effective September 1, 2016.

8:12. Filing Fees.

(a) ...no change

(b) ...no change

(c) ...no change

(d) Matters Exempt from Fee. [(1)] No fee shall be paid upon the filing of a complaint within the small claims jurisdiction in an action where the sole issue is eligibility for any homestead credit, rebate, or refund program administered by the Division of Taxation or a senior citizen's or veteran's exemption or deduction.

Note: Adopted June 20, 1979 to be effective July 1, 1979; amended July 22, 1983 to be effective September 12, 1983; paragraph (d) redesignated (d)(1) and paragraph (d)(2) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (a), (b) and (c) amended July 9, 1991 to be effective July 10, 1991; paragraphs (a), (b) and (c) amended, paragraph (c)(2) redesignated (c)(2)(i) and paragraph (c)(2)(ii) adopted July 10, 1997, to be effective September 1, 1997; paragraph (b) and (c)(2) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a), (c)(1), (c)(2)(i), (c)(2)(ii), and (c)(3) amended July 1, 2002 to be effective immediately; paragraphs (a) and (b) amended July 27, 2006 to be effective September 1, 2006; paragraph (d)(1) amended July 9, 2008 to be effective September 1, 2008; paragraphs (a), (b), and (c) amended and paragraph (d)(2) deleted October 31, 2014 to be effective November 17, 2014; paragraph (d) amended August 1, 2016 to be effective September 1, 2016.

GUIDELINES FOR OPERATION OF PRETRIAL INTERVENTION IN NEW JERSEY

[Note: The PTI Guidelines Appear in the Rules of Court Immediately Following Rule 3:28]

Guideline 1 . . . no change.

Guideline 2 . . . no change.

Guideline 3 . . . no change

Guideline 4 . . . no change.

Guideline 5 . . . no change.

Guideline 6.

Application for PTI should be made as soon as possible after commencement of proceedings, but, where an indictable offense is charged, not later than 28 days after indictment. All applications for PTI should be processed in the order of their filing. However, where the application is filed after an indictment has been returned, the PTI Program should complete its evaluation and make its recommendation thereon within 25 days after filing. The prosecutor should complete a review and advise the defendant within 14 days thereafter. An appeal by defendant to the trial court shall be brought within 10 days after the rejection notice and should be determined either before or at the pretrial conference.

Official Comment

To relieve defendants from the anxiety of facing prosecution, to apply appropriate rehabilitative measures at an early date, and to effect savings in criminal justice resources, PTI programs should endeavor to divert qualified defendants from the ordinary course of prosecution

as soon as possible after the filing of a complaint. The court must advise defendant of the opportunity to be considered for PTI at the first appearance before the court. See R. 3:4-2. While a PTI application should be made before indictment, there are nevertheless problems involved in securing public defender counsel before arraignment. Thus, while pre-indictment filing is encouraged, the application may be made no later than 28 days after indictment, but not thereafter. This time requirement should permit all defendants sufficient opportunity to make a voluntary and informed choice concerning enrollment in a PTI program.

The time requirements set forth in the guidelines for evaluation, recommendation and review are intended to enable complete processing of a defendant's application before the pretrial conference. See R. [3:9-1(e)] 3:9-1(f). Early filing as encouraged by this guideline, will afford PTI programs and prosecutors the opportunity to manage their resources better by providing them sufficient time to make informed evaluations. The time limits for processing applications are designed to facilitate speedy trials and are realistic in view of the limited scope of review following rejection.

Guideline 7 . . . no change.

Guideline 8 . . . no change.

Note: Guidelines 2, 3, 6 and 8 and Comments to Guidelines 2, 3, 5 and 6 amended July 13, 1994 to be effective January 1, 1995; Guidelines 3(g) and (h) and Comments to Guidelines 3(g) and (h) amended June 28, 1996 to be effective September 1, 1996; Guideline 3(a) amended July 19, 2012 to be effective September 4, 2012; Comment to Guideline 6 amended August 1, 2016 to be effective September 1, 2016.

RPC 1.0 Terminology

(a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of "informed consent."

(c) "Firm" or "law firm" denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(d) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

(e) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(f) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(g) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(h) "Primary responsibility" denotes actual participation in the management and direction of the matter at the policy-making level or responsibility at the operational level as manifested by the continuous day-to-day responsibility for litigation or transaction decisions

(i) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(j) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(k) "Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(l) "Screened" denotes the isolation of a lawyer from any participation in a matter through the timely adoption and enforcement by a law firm of a written procedure pursuant to RPC 1.10(f) which is reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

(m) "Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(n) "Tribunal" denotes a court, an arbitrator in an arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(o) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording, [and e-mail] electronic communication, and embedded information (metadata) in an electronic document. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

(p) "Metadata" is embedded information in electronic documents that is generally hidden from view in a printed copy of a document. It is generated when documents are created or revised on a computer. Metadata may reflect such information as the author of a document, the date or dates on which the document was revised, tracked revisions to the document, and comments inserted in the margins.

Note: Adopted November 17, 2003 to be effective January 1, 2004; paragraph (o) amended and new paragraph (p) adopted August 1, 2016 to be effective September 1, 2016.

RPC 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) A lawyer shall abide by a client's decisions concerning the scope and objectives of representation, subject to paragraphs (c) and (d), and as required by RPC 1.4 shall consult with the client about the means to pursue them. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall consult with the client and, following consultation, shall abide by the client's decision on the plea to be entered, jury trial, and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel or assist a client in conduct that the lawyer knows is illegal, criminal or fraudulent, or in the preparation of a written instrument containing terms the lawyer knows are expressly prohibited by law, but a lawyer may counsel or assist a client in a good faith effort to determine the validity, scope, meaning or application of the law.

A lawyer may counsel a client regarding New Jersey's medical marijuana laws and assist the client to engage in conduct that the lawyer reasonably believes is authorized by those laws. The lawyer shall also advise the client regarding related federal law and policy.

Note: Adopted July 12, 1984 to be effective September 10, 1984; caption amended, paragraphs (a) and (c) amended, and paragraph (e) deleted and redesignated as RPC 1.4(d) November 17, 2003 to be effective January 1, 2004; paragraph (d) amended August 1, 2016 to be effective September 1, 2016.

RPC 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b), (c), and (d).

(b) A lawyer shall reveal such information to the proper authorities, as soon as, and to the extent the lawyer reasonably believes necessary, to prevent the client or another person:

(1) from committing a criminal, illegal or fraudulent act that the lawyer reasonably believes is likely to result in death or substantial bodily harm or substantial injury to the financial interest or property of another;

(2) from committing a criminal, illegal or fraudulent act that the lawyer reasonably believes is likely to perpetrate a fraud upon a tribunal.

(c) If a lawyer reveals information pursuant to RPC 1.6(b), the lawyer also may reveal the information to the person threatened to the extent the lawyer reasonably believes is necessary to protect that person from death, substantial bodily harm, substantial financial injury, or substantial property loss.

(d) A lawyer may reveal such information to the extent the lawyer reasonably believes necessary:

(1) to rectify the consequences of a client's criminal, illegal or fraudulent act in the furtherance of which the lawyer's services had been used;

(2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, or to establish a defense to a criminal charge, civil claim or

disciplinary complaint against the lawyer based upon the conduct in which the client was involved;

(3) to prevent the client from causing death or substantial bodily harm to himself or herself; [or]

(4) to comply with other law; or

(5) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership, or resulting from the sale of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client. Any information so disclosed may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest.

(e) Reasonable belief for purposes of RPC 1.6 is the belief or conclusion of a reasonable lawyer that is based upon information that has some foundation in fact and constitutes prima facie evidence of the matters referred to in subsections (b), (c), or (d).

(f) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Official Comment (August 1, 2016)

Paragraph (d)(5) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering merger, or a lawyer is considering the purchase of a law practice. Under these circumstances, lawyers and law firms are permitted to disclose limited information,

but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed written consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these Rules.

Any information disclosed pursuant to paragraph (d)(5) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (d)(5) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (d)(5). Paragraph (d)(5) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, such as when a lawyer in a firm discloses information to another lawyer in the same firm

to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

Paragraph (f) requires a lawyer to act competently to safeguard information, including electronically stored information, relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons or entities who are participating in the representation of the client or who are subject to the lawyer's supervision. The unauthorized access to, or the inadvertent or unauthorized disclosure of, confidential information relating to the representation of a client does not constitute a violation of paragraph (f) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent in writing to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules.

Note: Adopted July 12, 1984 to be effective September 10, 1984; paragraphs (a) and (b) amended, new paragraph (c) added, former paragraph (c) redesignated as paragraph (d), and former paragraph (d) amended and redesignated as paragraph (e) November 17, 2003 to be effective January 1, 2004; former subparagraph (d)(3) redesignated as subparagraph (d)(4) and new subparagraph (d)(3) adopted July 19, 2012 to be effective September 4, 2012; paragraph (d) amended, new paragraph (f) adopted, and Official Comment added August 1, 2016 to be effective September 1, 2016.

RPC 1.18. Prospective Client

(a) A lawyer who has had [discussions] communications in consultation with a prospective client shall not use or reveal information acquired in the consultation, even when no client-lawyer relationship ensues, except as RPC 1.9 would permit in respect of information of a former client.

(b) A lawyer subject to paragraph (a) shall not represent a client with interests materially adverse to those of a former prospective client in the same or a substantially related matter if the lawyer received information from the former prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (c).

(c) If a lawyer is disqualified from representation under (b), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except that representation is permissible if (1) both the affected client and the former prospective client have given informed consent, confirmed in writing, or (2) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom and written notice is promptly given to the former prospective client.

(d) A person who [discusses] communicates with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a "prospective client," and if no client-lawyer relationship is formed, is a "former prospective client."

Official Comment (August 1, 2016)

A person who communicates with a lawyer to disqualify that lawyer is not considered a prospective client. For example, an uninvited electronic communication is not, without more, considered to be a consultation with a prospective client.

Note: Adopted November 17, 2003 to be effective January 1, 2004; paragraphs (a) and (d) amended, and Official Comment adopted August 1, 2016 to be effective September 1, 2016.

RPC 4.4. Respect for Rights of Third Persons

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document or electronic information and has reasonable cause to believe that the document or information was inadvertently sent shall not read the document or information or, if he or she has begun to do so, shall stop reading [the document,] it. The lawyer shall (1) promptly notify the sender [, and] (2) return the document to the sender and, if in electronic form, delete it and take reasonable measures to assure that the information is inaccessible.

A lawyer who receives a document or electronic information that contains privileged lawyer-client communications involving an adverse or third party and who has reasonable cause to believe that the document or information was wrongfully obtained shall not read the document or information or, if he or she has begun to do so, shall stop reading it. The lawyer shall (1) promptly notify the lawyer whose communications are contained in the document or information (2) return the document to the other lawyer and, if in electronic form, delete it and take reasonable measures to assure that the information is inaccessible. A lawyer who has been notified about a document containing lawyer-client communications has the obligation to preserve the document.

Official Comment (August 1, 2016)

Lawyers should be aware of the presence of metadata in electronic documents. "Metadata" is embedded information in electronic documents that is generally hidden

from view in a printed copy of a document. It is generated when documents are created or revised on a computer. Metadata may reflect such information as the author of a document, the date or dates on which the document was revised, tracked revisions to the document, and comments inserted in the margins. It may also reflect information necessary to access, understand, search, and display the contents of documents created in spreadsheet, database, and similar applications.

A lawyer who receives an electronic document that contains unrequested metadata may, consistent with Rule of Professional Conduct 4.4(b), review the metadata provided the lawyer reasonably believes that the metadata was not inadvertently sent. When making a determination as to whether the metadata was inadvertently sent, the lawyer should consider the nature and purpose of the document. For example, absent permission from the sender, a lawyer should not review metadata in a mediation statement or correspondence from another lawyer, as the metadata may reflect attorney-client communications, work product or internal communications not intended to be shared with opposing counsel. The lawyer should also consider the nature of the metadata at issue. Metadata is presumed to be inadvertently sent when it reflects privileged attorney-client or work product information. Metadata is likely to be inadvertently sent when it reflects private or proprietary information, information that is outside the scope of discovery by agreement or court order, or information specifically objected to in discovery. If a lawyer must use forensic "mining" software or similar methods to reveal metadata in an electronic document when metadata was not specifically requested, as opposed to using simple computer keystrokes on ordinary business software, it is likely that the information so revealed was inadvertently sent, given the degree of sophistication required to reveal the metadata.

A document will not be considered "wrongfully obtained" if it was obtained for the purposes of encouraging, participating in, cooperating with, or conducting an actual or potential law enforcement, regulatory, or other governmental investigation. Government lawyers, namely, lawyers at the offices of the Attorney General, County Prosecutors, and United States Attorney, who have lawfully received materials that could be considered to be inadvertently sent or wrongfully obtained under this Rule are not subject to the notification and return requirements when such requirements could impair the legitimate interests of law enforcement. These specified government lawyers may also review and use such materials to the extent permitted by the applicable substantive law, including the law of privileges.

Note: Adopted July 12, 1984 to be effective September 10, 1984; text redesignated as paragraph (a) and new paragraph (b) adopted November 17, 2003 to be effective January 1, 2004; paragraph (b) amended and Official Comment adopted August 1, 2016 to be effective September 1, 2016.

RPC 5.3 Responsibilities Regarding Non-lawyer Assistance [Assistants]

With respect to a non-lawyer employed or retained by or associated with a lawyer:

(a) every lawyer, law firm or organization authorized by the Court Rules to practice law in this jurisdiction shall adopt and maintain reasonable efforts to ensure that the conduct of nonlawyers retained or employed by the lawyer, law firm or organization is compatible with the professional obligations of the lawyer.

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or ratifies the conduct involved;

(2) the lawyer has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action; or

(3) the lawyer has failed to make reasonable investigation of circumstances that would disclose past instances of conduct by the nonlawyer incompatible with the professional obligations of a lawyer, which evidence a propensity for such conduct.

Official Comment (August 1, 2016)

Paragraph (a) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that

nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. Paragraph (b) applies to lawyers who have supervisory authority over such nonlawyers within or outside the firm. Paragraph (c) specifies the circumstances in which a lawyer is responsible for the conduct of such nonlawyers within or outside the firm that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer.

Nonlawyers Within the Firm

Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

Nonlawyers Outside the Firm

A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a

lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdiction in which the services will be performed, particularly with regard to confidentiality. When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer should reach an agreement in writing with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Note: Adopted July 12, 1984 to be effective September 10, 1984; paragraph (a) amended November 17, 2003 to be effective January 1, 2004; caption amended and Official Comment adopted August 1, 2016 to be effective September 1, 2016.

RPC 8.5. Disciplinary Authority; Choice of Law

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is subject also to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

Note: Adopted July 12, 1984 to be effective September 10, 1984; caption amended, text amended and redesignated as paragraph (a) with caption added, new paragraph (b) with caption adopted November 17, 2003 to be effective January 1, 2004; paragraph (b) amended August 1, 2016 to be effective September 1, 2016.

APPENDIX I

Life Expectancies for All Races and Both Sexes[1]

Age	Expectancy	Age	Expectancy	Age	Expectancy
0-1	78.7	34-35	46.2	68-69	16.9
1-2	78.1	35-36	45.2	69-70	16.2
2-3	77.2	36-37	44.3	70-71	15.5
3-4	76.2	37-38	43.3	71-72	14.8
4-5	75.2	38-39	42.4	72-73	14.1
5-6	74.2	39-40	41.5	73-74	13.4
6-7	73.2	40-41	40.5	74-75	12.7
7-8	72.2	41-42	39.6	75-76	12.1
8-9	71.3	42-43	38.7	76-77	11.4
9-10	70.3	43-44	37.7	77-78	10.8
10-11	69.3	44-45	36.8	78-79	10.2
11-12	68.3	45-46	35.9	79-80	9.6
12-13	67.3	46-47	35.0	80-81	9.1
13-14	66.3	47-48	34.1	81-82	8.5
14-15	65.3	48-49	33.2	82-83	8.0
15-16	64.3	49-50	32.3	83-84	7.5
16-17	63.3	50-51	31.4	84-85	7.0
17-18	62.4	51-52	30.6	85-86	6.5
18-19	61.4	52-53	29.7	86-87	6.1
19-20	60.4	53-54	28.9	87-88	5.7
20-21	59.5	54-55	28.0	88-89	5.3
21-22	58.5	55-56	27.2	89-90	4.9
22-23	57.6	56-57	26.3	90-91	4.6
23-24	56.6	57-58	25.5	91-92	4.3
24-25	55.7	58-59	24.7	92-93	4.0
25-26	54.7	59-60	23.9	93-94	3.7
26-27	53.8	60-61	23.1	94-95	3.4
27-28	52.8	61-62	22.3	95-96	3.2
28-29	51.9	62-63	21.5	96-97	3.0
29-30	50.9	63-64	20.7	97-98	2.8
30-31	50.0	64-65	19.9	98-99	2.6
31-32	49.0	65-66	19.1	99-100	2.5
32-33	48.1	66-67	18.4	100+	2.3
33-34	47.1	67-68	17.6		

[1] Source: National Vital Statistics Reports, Vol. 52, No. 14, February 18, 2004. Previous table deleted and new table adopted November 7, 1988, to be effective January 2, 1989. Previous table deleted and new table adopted July 14, 1992 to be effective September 1, 1992. Previous table deleted and new table adopted July 27, 2006 to be effective September 1, 2006; table updated August 1, 2016 to be effective September 1, 2016.

APPENDIX II. — INTERROGATORY FORMS

Form A. Uniform Interrogatories to be Answered by Plaintiff in All Personal Injury Cases (Except Medical Malpractice Cases): Superior Court

All questions must be answered unless the court otherwise orders or unless a claim of privilege or protective order is made in accordance with *R.* 4:17-1(b)(3).

(Caption)

1. ...no change.

2. ...no change.

3. ...no change.

4. ...no change.

5. ...no change.

6. ...no change.

7. ...no change.

8. ...no change.

9. ...no change.

10. ...no change.

11. ...no change.

12. ...no change.

13. ...no change.

14. ...no change.

15. ...no change.

16. ...no change.

17. ...no change.

18. ...no change.

19. ...no change.

20. ...no change.

21. ...no change.

22. ...no change.

23. ...no change.

24. ...no change.

TO BE ANSWERED ONLY IN AUTOMOBILE ACCIDENT CASES

25. State on what street, highway, road or other place (designate which) and in what general direction (north, south, east or west) your vehicle was proceeding immediately prior to the collision. (You may include a sketch for greater clarity.)

26. With respect to fixed objects at the location of the collision, state as nearly as possible the point of impact. If you included a sketch, place an X thereon to denote the point of impact.

(Note: The term "point of impact" as used in this and other questions has reference to the exact point on the street, highway, road or other place where the vehicles collided or where any pedestrian was struck.)

27. State whether there were any traffic control devices, signs or police officers at or near the place of the collision. If there were, describe them (*i.e.*, traffic lights, stop sign, police officers, etc.) and state the exact location of each.

28. If you contend that there was a malfunction of a motor vehicle or equipment, state: (a) make, model and year of the motor vehicle and whether or not that vehicle was equipped with power brakes and steering; (b) the nature of the malfunction; (c) the date the motor vehicle was purchased and the name and address of the person from whom the motor

vehicle was purchased; (d) the date that that portion of the motor vehicle in which the malfunction occurred was last inspected and the name and address of the person inspecting same; (e) the last date prior to the accident that that portion of the motor vehicle was repaired or replaced, the nature and extent of the repairs, the name and address of the person repairing or replacing same; (f) if the motor vehicle was repaired after the accident, state the name and address of the person repairing same and the nature of the repairs; and (g) attach a copy of any repair bills.

29. If the collision occurred at an uncontrolled intersection, state: (a) which vehicle entered the intersection first; (b) whether your vehicle came to a full stop before entering the intersection; and (c) if your vehicle did not come to a full stop before entering the intersection, state the speed of your vehicle when it entered the intersection.

30. For each other vehicle or pedestrian collided with, state, at the time you first observed the other vehicle or pedestrian, (a) your speed and (b) the speed of the other vehicle or the movement, if any, of the pedestrian, and the distance in feet between (c) the front of your vehicle and the point of impact; (d) the front of the other vehicle or pedestrian and the point of impact, and (e) the front of your vehicle and the other vehicle or pedestrian.

31. State where each vehicle came to rest after the impact. Include the distance in terms of feet from the point of impact to the point where each vehicle came to rest.

32. For each other vehicle or pedestrian involved, state (a) which part of your vehicle; and (b) which part of the other vehicle or pedestrian came into contact.

33. State the following facts with respect to the collision: (a) time; (b) condition of weather; (c) condition of visibility; and (d) condition of roadway.

34. For each other vehicle or pedestrian involved, state whether you observed the

vehicle or pedestrian prior to the accident? YES ( ) or NO ( ). If the answer is "yes," set forth the time that elapsed from the time you first saw the vehicle or pedestrian until the impact occurred.

35. At the time of the impact, state the speeds of all vehicles involved in the collision.

36. Were you charged with a motor vehicle violation as a result of the collision? YES ( ) or NO ( ). If the answer is "yes", state: (a) charge; (b) plea; and (c) disposition.

37. Do you have insurance coverage and/or PIP benefits under an applicable policy or policies of automobile insurance? As to each such policy provide the name and address of the insurance carrier, policy number, the named insured and attach a copy of the declaration sheet.

If you are making a claim for property damage to a motor vehicle, provide answers to the uniform interrogatories contained in Form B, questions 1 through 18.

FOR PRODUCT LIABILITY CASES (OTHER THAN PHARMACEUTICAL AND TOXIC TORT CASES), ALSO ANSWER A(2)

CERTIFICATION

I hereby certify that the foregoing answers to interrogatories are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

I hereby certify that the copies of the reports annexed hereto provided by either treating physicians or proposed expert witnesses are exact copies of the entire report or reports provided by them; that the existence of other reports of said doctors or experts are unknown to me, and if such become later known or available, I shall serve them promptly on the propounding party.

Note: Amended July 17, 1975 to be effective September 8, 1975; entire text deleted and new text added July 13, 1994 to be effective September 1, 1994; amended June 28, 1996 to be

effective September 1, 1996; amended July 10, 1998 to be effective September 1, 1998; new introductory paragraph added July 5, 2000 to be effective September 5, 2000; interrogatory 23 and certification amended July 28, 2004 to be effective September 1, 2004; caption and final instruction amended July 23, 2010 to be effective September 1, 2010; interrogatory 1 amended July 19, 2012 to be effective September 4, 2012; number 25 renumbered as 37, and new numbers 25 through 36 added August 1, 2016 to become effective September 1, 2016.

[Appendix VII]

New Jersey Judiciary
Superior Court - Appellate Division

Civil Case Information Statement

Please type or clearly print all information.

Title in Full	Trial Court or Agency Docket Number

- Attach additional sheets as necessary for any information below.

Appellant's Attorney Email Address:

☐ Plaintiff ☐ Defendant ☐ Other (Specify)

Name Client

Street Address City State Zip Telephone Number

Respondent's Attorney* Email Address:

Name Client

Street Address City State Zip Telephone Number

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

Give Date and Summary of Judgment, Order, or Decision Being Appealed and Attach a Copy:

Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? ☐ Yes ☐ No

If so, has the order been properly certified as final pursuant to *R.* 4:42-2? (If not, leave to appeal must be sought. *R.* 2:2-4,2:5-6) ☐ Yes ☐ No

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to *R.* 4:42-2.)

Were any claims dismissed without prejudice? ☐ Yes ☐ No

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (*R.* 2:5-1(h)) ☐ Yes ☐ No

Give a Brief Statement of the Facts and Procedural History:

To the extent possible, list the proposed issues to be raised on the appeal as they will be described in appropriate point headings pursuant to *R.* [2:6-2(a)(5)] 2:6-2(a)(6). (Appellant or cross-appellant only.):

If you are appealing from a judgment entered by a trial judge sitting without a jury or from an order of the trial court, complete the following:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ Yes ☐ No
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ Yes ☐ No
3. Will the trial judge be filing a statement or an opinion pursuant to *R.* 2:5-1(b)? ☐ Yes ☐ No

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to *R.* 2:5-1(b).

Date of Your Inquiry: _____

1. Is there any appeal now pending or about to be brought before this court which:
   (A) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☐ No
   (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☐ Yes ☐ No
2. Was there any prior appeal involving this case or controversy? ☐ Yes ☐ No

If the answer to either 1 or 2 above is Yes, state:

Case Name: Appellate Division Docket Number:

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

State whether you think this case may benefit from a CASP conference. ☐ Yes ☐ No
Explain your answer:

Whether or not an opinion is approved for publication in the official Court Reporter books, the Judiciary posts all Appellate Division opinions on the Internet.

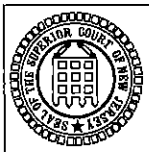
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

_____
Name of Appellant or Respondent

_____
Name of Counsel of Record
(or your name if not represented by counsel)

_____
Date

_____
Signature of Counsel of Record
(or your signature if not represented by counsel)



New Jersey Judiciary
Superior Court - Appellate Division

Criminal Case Information Statement

(For use in Criminal, Quasi-Criminal and Juvenile Actions)

Please type or clearly print all information.

Title in Full

Trial Court Docket Number

Appellant's Attorney Email Address:

☐ Plaintiff ☐ Defendant ☐ Other (Specify)

Name Client

Mailing Address City State Zip Telephone Number

Respondent's Attorney Email Address:

Name Client

Mailing Address City State Zip Telephone Number

Give Date and Summary of Judgment or Order Being Appealed and Attach a Copy:

Are there any issues below in this action involving defendant which have not been disposed of? ☐ Yes ☐ No
(If so, leave to appeal must be sought. *R.* 2:2-4, 2:5-6)

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (*R.* 2:5-1(h)) ☐ Yes ☐ No

Is defendant presently confined? ☐ Yes ☐ No

If not, is defendant on bail? ☐ Yes ☐ No

Provide any State Bureau of Identification (SBI) number and date of birth: _____/_____

Will the issue(s) in this appeal involve only whether the trial court imposed a proper sentence? ☐ Yes ☐ No
If so, briefs shall not be filed without leave of court. (R. 2:9-11)

Are there co-defendants?

If so, state their names and whether they were tried with the defendant or shared any pretrial motion. ☐ Yes ☐ No

Give a Brief Statement of the Facts and Procedural History:

To the extent possible, list the proposed issues to be raised on the appeal as they will be described in appropriate point headings pursuant to [2:6-2(a)(5)] 2:6-2(a)(6). (Appellant or cross-appellant only.):

If you are appealing from a judgment entered by a trial judge sitting without a jury or from an order of the trial court, complete the following:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ ☐ Yes ☐ No
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ ☐ Yes ☐ No
   (Attach a copy.)
3. Will the trial judge be filing a statement or an opinion pursuant to *R.* 2:5-1(b)? ☐ Yes ☐ No

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to *R.* 2:5-1(b).

Date of Your Inquiry: _____

1. Is there any case now pending or about to be brought before this court which:
   (A) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☐ No
   (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? ☐ Yes ☐ No
2. Was there any prior appeal involving this case or controversy? ☐ Yes ☐ No

If the answer to either 1 or 2 above is Yes, state:

Case Name and Type (direct, 1st PCR, other, etc.): Appellate Division Docket Number:

Whether or not an opinion is approved for publication in the official Court Reporter books, the Judiciary posts all Appellate Division opinions on the Internet.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

_____
Name of Appellant or Respondent

_____
Name of Counsel of Record
(or your name if not represented by counsel)

_____
Date

_____
Signature of Counsel of Record
(or your signature if not represented by counsel)

Appendix XI-I. Notice of Application For Wage Application

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

_____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket No: _____
Civil Action

_____, Plaintiff,

v.

_____, Defendant(s).

Notice of Application for Wage Execution

To: _____
Name of Judgment-Debtor

Address _____

_____

TAKE NOTICE that an application is being made by the judgment-creditor to the above-named court, located at _____, New Jersey for a Wage Execution Order to issue against your salary, to be served on your employer, _____, (name and address of employer), for: (a) 10% of your gross salary when the same shall equal or exceed the amount of $217.50 per week; or (b) 25% of your disposable earnings for that week; or (c) the amount, if any, by which your disposable weekly earnings exceed $217.50, whichever shall be the least. Disposable earnings are defined as that portion of the earnings remaining after the deduction from the gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are $217.50 or less, if paid weekly, or $435.00 or less, if paid every two weeks, or $471.25 or less, if paid twice per month, or $942.50, or less, if paid monthly then no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld and only one execution against your wages shall be satisfied at a time. Your employer may not discharge, discipline or discriminate against you because your earnings have been subjected to garnishment.

You may notify the Clerk of the Court and the attorneys for the judgment- creditor, whose address appears above, in writing, within ten days after service of this notice upon you, why such an Order should not be issued, and thereafter the application for the Order will be set down for a hearing of which you will receive notice of the date, time and place.

If you do not notify the Clerk of the Court and the judgment-creditor's attorney, or the judgment-creditor if there is no attorney, in writing of your objection, you will receive no further notice and the Order will be signed by the Judge as a matter of course.

You also have a continuing right to object to the wage execution or apply for a reduction in the amount withheld even *after* it has been issued by the Court. To object or apply for a reduction, file a written statement of your objection or reasons for a reduction with the Clerk of the Court and send a copy to the creditor's attorney or directly to the creditor if there is no attorney. You will be entitled to a hearing within 7 days after you file your objection or application for a reduction.

Certification of Service

I served the within Notice upon the judgment-debtor, _____, on this date by sending it simultaneously by regular and certified mail, return receipt requested, to the judgment-debtor's last known address, set forth above. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to the punishment.

_____ Date

_____ Attorney for Judgment-Creditor or Judgment-Creditor Pro Se

Note: Adopted July 13, 1994, effective September 1, 1994; amended September 27, 1996, effective October 1, 1996; amended July 30, 1997, effective September 1, 1997; amended July 28, 2004, to be effective September 1, 2004; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009; amended November 6, 2013 to be effective November 25, 2013; amended July 22, 2014 to be effective September 1, 2014; amended August 1, 2016 to be effective September 1, 2016.

Appendix XI-J. Wage Execution

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
_____ County
Telephone Number _____
Docket Number _____

ORDER AND EXECUTION AGAINST EARNINGS
PURSUANT TO 15 *U.S.C.* 1673 and *N.J.S.A.* 2A:17-56

Judgment Number _____
Writ Number _____ Issued _____
Name and Address of Employer Ordered to Make Deductions
_____
_____
_____

_____
Plaintiff

vs

_____
Designated Defendant
(Address)

Unless the designated defendant is currently subject to withholding under another wage execution, the employer is ordered to deduct from the earnings which the designated defendant receives and to pay over to the court officer named below, the lesser of the following: (a) 10% of the gross weekly pay; or (b) 25% of disposable earnings for that week; or (c) the amount, if any, by which the designated defendant's disposable weekly earnings exceed $217.50 per week, until the total amount due has been deducted or the complete termination of employment. Upon either of these events, an immediate accounting is to be made to the court officer. Disposable earnings are defined as that portion of the earnings remaining after the deduction from gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are $217.50 or less, if paid weekly, or $435.00 or less, if paid every two weeks, or $471.25 or less, if paid twice per month, or $942.50, or less, if paid monthly then no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld and only one execution against the wages of the designated defendant shall be satisfied at a time. Please refer to Page 2, How to Calculate Proper Garnishment Amount.

The employer shall immediately give the designated defendant a copy of this order. The designated defendant may object to the wage execution or apply for a reduction in the amount withheld at any time. To object or apply for a reduction, a written statement of the objection or reasons for a reduction must be filed with the Clerk of the Court and a copy must be sent to the creditor's attorney or directly to the creditor if there is no attorney. A hearing will be held within 7 days after filing the objection or application for a reduction. According to law, no employer may terminate an employee because of a garnishment.

Judgment Date	_____
Judgment Award	$ _____
Court Costs & Stat Atty. Fees	$ _____
Total Judgment Amount	$ _____
Interest From Prior Writs	$ _____
Costs From Prior Writs	$ _____
Subtotal A	$ _____
Credits From Prior Writs	$ _____
Subtotal B	$ _____
New Miscellaneous Costs	$ _____
New Interest on This Writ	$ _____
New Credits on This Writ	$ _____
Execution Fees & Mileage	$ _____
Subtotal C	$ _____
Court Officer Fee	$ _____
Total due this date	$ _____

Plaintiff's Attorney and Address:
_____
_____
_____

Date _____

_____
Judge

_____
Jane B. Doe
Clerk of the Special Civil Part

Make payments at least monthly to Court Officer as set forth:
_____
Court Officer

I RETURN this execution to the Court
☐ Unsatisfied ☐ Satisfied ☐ Partly Satisfied

Amount Collected	$ _____
Fee Deducted	$ _____
Amount Due to Attorney	$ _____

Date _____

_____
Court Officer

How to Calculate Proper Garnishment Amount

1. Gross Salary per pay period ..... _____
2. Less:
   Amounts Required by Law to be Withheld:
   a. U.S. Income Tax ..... _____
   b. FICA (social security) ..... _____
   c. State Income Tax, ETT, etc. ..... _____
   d. N.J. SUI ..... _____
   e. Other State or Municipal Withholding ..... _____
   f. TOTAL ..... - _____
3. Equals "disposable earnings" ..... = _____
4. If salary is paid:
   - weekly, then subtract $217.50
   - every two weeks, then subtract $435.00
   - twice per month, then subtract $471.25
   - monthly, then subtract $942.50

   (Federal law prohibits any garnishment when "disposable earnings" are smaller than the amount on line 4) ..... - _____
5. Equals the amount potentially subject to garnishment (if less than zero, enter zero) ..... = _____
6. Take "disposable earnings" (Line 3) and multiply by .25: $_____ x .25 = $_____ ..... _____
7. Take the gross salary (Line 1) and multiply by .10: $_____ x .10 = $_____ ..... _____
8. Compare lines 5, 6, and 7 - the amount which may lawfully be deducted is the smallest amount on line 5, line 6, or line 7, i.e., ... _____

Source: 15 U.S.C. 1671 *et seq.*; 29 C.F.*R.* 870; *N.J.S.A.* 2A:17- 50 *et seq.*

[Note: Former Appendix XI-I adopted effective January 2, 1989; amended June 29, 1990, effective September 4, 1990; amended July 14, 1992, effective September 1, 1992; redesignated as Appendix XI-J and amended July 13, 1994, effective September 1, 1994; amended September 27, 1996, effective October 1, 1996; amended July 30, 1997, effective September 1, 1997; amended July 28, 2004 to be effective September 1, 2004; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009; amended November 6, 2013 to be effective November 25, 2013; amended July 22, 2014 to be effective September 1, 2014; amended August 1, 2016 to be effective September 1, 2016.]

Appendix XI-M. Notice of Motion for Order Enforcing Litigant's Rights

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

_____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket Number: _____

_____,
Plaintiff

v.

_____,
Defendant

Civil Action
Notice of Motion for Order Enforcing Litigant's Rights

TO: _____, Defendant

PLEASE TAKE NOTICE that on _____, 20___, at _____ (check one) ☐ am ☐ pm
I will apply to the above-named court located at _____,
New Jersey, for an Order:

1. Adjudicating that you have violated the litigant's rights of the plaintiff by failure to comply with the (check one) ☐ order for discovery ☐ information subpoena served upon you;

2. Compelling you to immediately furnish answers as required by the (check one) ☐ order for discovery ☐ information subpoena;

3. Directing that, if you fail to appear in court on the date written above, you [shall] may be arrested by an Officer of the Special Civil Part or the Sheriff and confined in the county jail until you comply with the (check one) ☐ order for discovery; ☐ information subpoena;

4. Directing that, if you fail to appear in court on the date written above, you shall pay the plaintiff's attorney fees in connection with this motion;

5. Granting such other relief as may be appropriate.

If you have been served with an information subpoena, you may avoid having to appear in court by sending written answers to the questions attached to the information subpoena to me no later than three (3) days before the court date.

I will rely on the certification attached hereto.

Dated: _____ Signature: _____
(Check One) ☐ Attorney for Plaintiff or ☐ Plaintiff Pro Se

[Former Appendix XI-L adopted July 14, 1992, effective September 1, 1992: redesignated as Appendix XI-M July 13, 1994, effective September 1, 1994; amended August 1, 2016 effective September 1, 2016.]

Appendix XI-O. Order to Enforce Litigants Rights

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN YOUR ARREST

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

_____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket Number: _____

_____,
Plaintiff

v.

_____,
Defendant

Civil Action
Order to Enforce Litigant's Rights

This matter being presented to the court by _____, on plaintiff's Motion for an Order Enforcing Litigant's Rights, and the defendant having failed to appear on the return date and having failed to comply with the (check one) ☐ Order for Discovery previously entered in this case ☐ Information Subpoena.

(Do Not Write Below this line – for Court Use Only)

It is on this _____ day of _____, 20___, **ORDERED** and adjudged:

1. Defendant, _____, has violated plaintiff's rights as a litigant;
2. Defendant, _____, shall immediately furnish answers as required by the ☐ Order for Discovery ☐ Information Subpoena;
3. If Defendant, _____, fails to comply with the ☐ Order for Discovery ☐ Information Subpoena within ten (10) days of the certified date of personal service or mailing of this order, a warrant for the defendant's arrest [shall] may issue out of this Court without further notice.
4. Defendant shall pay plaintiff's attorney fees in connection with this motion in the amount of $_____.

_____
J.S.C.

Proof of Service

On _____, 20__, I served a true copy of this Order on Defendant, _____, (check one) ☐ personally, ☐ by sending it simultaneously by regular and certified mail, return receipt requested to _____,

(set forth address) _____,

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____ Signature: _____

[Note: Former Appendix XI-N adopted July 14, 1992, effective September 1, 1992; redesignated as Appendix XI-O July 13, 1994, effective September 1, 1994; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004. ; amended August 1, 2016 to be effective September 1, 2016]

Appendix XI-X Verified Complaint - Nonpayment of Rent

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

_____

Telephone Number _____

Superior Court of New Jersey
Law Division, Special Civil Part
_____ County
Docket Number: LT _____

_____,
Name of Plaintiff(s)/Landlord(s),
v.

_____,
Name of Defendant(s)/Tenant(s).

Civil Action

Verified Complaint
Landlord/Tenant

☐ Non-payment of Rent
☐ Other (Required Notices Attached)

Address of Rental Premises: _____.

Tenant's Phone Number: _____.

1. The owner of record is (name of owner) _____.
2. Plaintiff is the owner or (check one) ☐ agent, ☐ assignee, ☐ grantee or ☐ prime tenant of the owner.
3. The landlord ☐ did ☐ did not acquire ownership of the property from the tenant(s).
4. The landlord ☐ has ☐ has not given the tenant(s) an option to purchase the property.
5. The tenant(s) now reside(s) in and has (have) been in possession of these premises since (date) _____, under (check one) ☐ written or ☐ oral agreement
6. ☐ Check here if the tenancy is subsidized pursuant to either a federal or state program or the rental unit is public housing.
7. The landlord has registered the leasehold and notified tenant as required by *N.J.S.A.* 46:8-27.
8. The amount that must be paid by the tenant(s) for these premises is $_____, payable on the _____ day of each ☐ month or ☐ week in advance.

Complete Paragraphs 9A and 9B if Complaint is for Non-Payment of Rent

9A. There is due, unpaid and owing from tenant(s) to plaintiff/landlord rent as follows:

$ _____ base rent for _____ (specify the week or month)
$ _____ base rent for _____ (specify the week or month)
$ _____ base rent for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ late charge* for _____ (specify the week or month)
$ _____ attorney fees*
$ _____ other* (specify) _____

$ _____ TOTAL

* The late charges, attorney fees and other charges are permitted to be charged as rent for purposes of this action by federal, state and local law (including rent control and rent leveling) and by the lease.

9B. **The date that the next rent is due is** (date) _____.

If this case is scheduled for trial before that date, the total amount you must pay to have this complaint dismissed is (Total from line 9A) **$**_____.

If this case is scheduled for trial on or after that date, the total amount you must pay to have this complaint dismissed is $ _____.
(Total from line 9A plus the amount of the next rent due)

These amounts do not include late fees or attorney fees for Section 8 and public housing tenants. Payment may be made to the landlord or the clerk of the court at any time before the trial date, but on the trial date payment must be made by 4:30 p.m. to get the case dismissed.

Check Paragraphs 10 and 11 if the Complaint is for other than, or in addition to, Non-Payment of Rent. Attach All Notices to Cease and Notices to Quit/Demands For Possession.

10. ☐ Landlord seeks a judgment for possession for the additional or alternative reason(s) stated in the notices attached to this complaint. **State Reasons**: (Attach additional sheets if necessary.)

_____
_____
_____
_____

11. ☐ The tenant(s) has (have) not surrendered possession of the premises and tenant(s) hold(s) over and continue(s) in possession without the consent of landlord.

WHEREFORE, plaintiff/landlord demands judgment for possession against the tenant(s) listed above, together with costs

Dated: _____

_____
(Signature of Filing Attorney or Landlord Pro Se)

_____
(Printed or Typed Name of Attorney or Landlord Pro Se)

Landlord Verification

1. I certify that I am the ☐ landlord, ☐ general partner of the partnership, or ☐ authorized officer of a corporation or limited liability company that owns the premises in which tenant(s) reside(s).

2. I have read the verified complaint and the information contained in it is true and based on my personal knowledge.

3. The matter in controversy is not the subject of any other court action or arbitration proceeding now pending or contemplated and no other parties should be joined in this action except (list exceptions or indicate none): _____.

4. I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

5. The foregoing statements made by me are true and I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

At the trial plaintiff will require:

An interpreter ☐ Yes ☐ No Indicate language _____

An accommodation for a disability ☐ Yes ☐ No Required accommodation _____

Dated: _____

_____
(Signature of Landlord, Partner or Officer)

_____
(Printed Name of Landlord, Partner or Officer)

Note: Adopted as Appendix XI-X July 9, 2008 to be effective September 1, 2008. Revised effective September 1, 2009; amended August 1, 2016, to be effective September 1, 2016.

[Rules Appendix XXVII-A]

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_____ Plaintiff v. _____ Defendant	Superior Court of New Jersey Chancery Division - Family Part _____ County Docket Number FM- _____ **Civil Action** ***Rule* 5:4-2(h) Certification by Attorney and Client**

Attorney

_____, being of full age, hereby certifies as follows:

1. I am the attorney for the ☐ Plaintiff ☐ Defendant in the above captioned matter.
2. I make this Certification pursuant to New Jersey Court Rule 5:4-2(h).
3. I have provided my client with a copy of the document entitled "Descriptive Material (*R.* 5:4-2(h)) -- Divorce or Dissolution -- Dispute Resolution Alternatives to Conventional Litigation."
4. I have discussed with my client the complementary dispute resolution alternatives to litigation contained in that document.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____ Dated:

_____ Signature

****

Client

_____, being of full age, hereby certifies as follows:

1. I am the ☐ Plaintiff ☐ Defendant in the above captioned matter and am represented in this dissolution matter by _____.
2. I make this Certification pursuant to New Jersey Court Rule 5:4-2(h).
3. I have read the document entitled "Descriptive Material (*R.* 5:4-2(h)) -- Divorce or Dissolution -- Dispute Resolution Alternatives to Conventional Litigation."
4. I thus have been informed as to the availability of complementary dispute resolution alternatives to litigation.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____ Dated:

_____ Signature

[Rules Appendix XXVII-B]

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_____ Plaintiff v. _____ Defendant	Superior Court of New Jersey Chancery Division - Family Part _____ County Docket Number FM- _____ **Civil Action** ***Rule* 5:4-2(h) Certification by Self-Represented Litigant**

_____, of full age, hereby certifies as follows:

1. I am the ☐ Plaintiff ☐ Defendant in the above captioned matter.

2. I make this Certification pursuant to New Jersey Court *Rule* 5:4-2(h).

3. I have read the document entitled, "Descriptive Material (R. 5:4-2(h)) -- Divorce or Dissolution -- Dispute Resolution Alternatives to Conventional Litigation."

4. I thus have been informed as to the availability of complementary dispute resolution alternatives to conventional litigation.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____ Dated:

_____ Signature: