

## **RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY**

### **RULE 6:2. PROCESS**

#### **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 dispossession 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), 7:17B2. 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.

#### **6:2-2. Process; Filing and Issuance**

(a) Delivery to Clerk; Issuance. The plaintiff shall, when filing the complaint, furnish the clerk in tenancy actions with the summons to be issued and in all other actions with page 2 of the summons as set forth in Appendices XI-A(1) and (2) to these Rules, and two copies with the complaint annexed for each defendant, together with two additional copies for each mentally incapacitated defendant. The clerk shall issue the summons except as otherwise provided by law and, in tenancy actions, shall attach to the summons and complaint for service on each defendant English and Spanish copies of the announcement contained in Appendix XI-S to these rules. Original process shall issue out of the court and shall require an answer or an appearance at a specific time.

(b) Non-resident Defendants; Filing. If no defendant can be served with process within this State, the plaintiff may file the complaint with the clerk of the Special Civil Part of the county in which the subject transaction or occurrence took place.

**Note:** Source -- R.R. 7:3 (second sentence), 7:4-2, 7:4-4; former rule amended and designated paragraph (a) and paragraph (b) adopted July 17, 1975 to be effective September 8, 1975; paragraph (b) amended 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 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 18, 2001 to be effective November 1, 2001; paragraph (a) amended July 28, 2004 to be effective September 1, 2004.

### **6:2-3. Service of Process**

(a) **By Whom Served.** Personal service of process within this State may be made by Special Civil Part Officers and such other persons authorized by law to serve such process as the Assignment Judge designates. Persons so designated shall receive in payment for their services the fees allowed therefor by statute. Service of all process outside this State may be made in accordance with R. 4:4-4 and R. 4:4-5. After the filing of a complaint and receipt of a docket number, service may be made by mail pursuant to either R. 4:4-4(c) by plaintiff or, pursuant to R. 6:2-3(d), by the clerk, without the payment of mileage fees.

(b) **Manner of Service.** Service of process within this State shall be made in accordance with R. 6:2-3(d) or as otherwise provided by court order consistent with due process of law, or in accordance with R. 4:4-5. Substituted service within this State shall be made pursuant to R. 6:2-3(d). Substituted or constructive service outside this State may be made pursuant to the applicable provisions in R. 4:4-4 or R. 4:4-5.

In summary actions for the recovery of premises, service of process shall be by ordinary mail and by delivery personally pursuant to R. 4:4-4. When the person serving process is unable to effectuate service by delivering process personally, service may be effectuated by affixing a copy of the summons and complaint on the door of the unit occupied by the defendant or, if that is not possible, on another conspicuous part of the subject premises. When the plaintiff-landlord has reason to believe that service may not be made at the subject premises, the landlord shall also request service at an address, by certified and regular mail addressed to the tenant, where the landlord believes that service will be effectuated. The landlord shall furnish to the clerk two additional copies of the summons and complaint for each defendant for this purpose.

(c) **Notice of Service.** Except in landlord and tenant actions for recovery of the premises and actions in the Small Claims Section, upon the return of service of original process, the clerk shall inform the plaintiff or attorney of the date of service.

(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 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) Reservice. Where initial service by mail is not effected, plaintiff or the attorney may request reservice by mail or by court officer personally pursuant to R. 4:4-4. If reservice by mail at the same address is requested the plaintiff or attorney shall be required to provide a postal verification, affidavit containing a statement that sets forth the source of the address used for service of the summons and complaint, or other proof satisfactory to the court that the party to be served receives mail at that address.

(3) Fees. The fees for service by mail shall be as provided by N.J.S.A. 22A:2-37.1.

(4) Effective Service. Consistent with due process of law, service by mail pursuant to this rule shall have the same effect as personal service, and the simultaneous mailing shall constitute effective service unless the mail is returned to the court by the postal service with a marking indicating it has not been delivered, such as "Moved, Left No Address," "Attempted Addressee Not Known," "No Such Number/Street," "Insufficient Address," "Not Deliverable As Addressed - Unable to Forward," or the court has other reason to believe that service as was not effected. However, if the certified mail is returned to the court marked "unclaimed" or "refused," service is effective provided that the ordinary mail has not been returned. Process served by mail may be addressed to a post office box. Service shall be effective when forwarded by the postal service to an address outside the county in which the action is instituted. Where process is addressed to the defendant at a place of business or employment, with postal instructions to deliver to addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the defendant to whom process was mailed.

(5) Vacation of Defaults. If process is returned to the court by the postal service subsequent to entry of default and displays any of the markings listed in the preceding paragraph, or other reason exists to believe that service was not effected, the clerk shall vacate the default or default judgment and shall immediately notify the plaintiff or attorney of the action taken.

(e) General Appearance; Acknowledgement of Service. A general appearance or an acceptance of the service of a summons, signed by the defendant's attorney or signed and acknowledged by the defendant (other than a minor or mentally incapacitated person), shall have the same effect as if the defendant had been properly served.

**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.

#### **6:2-4. Issuance and Signing of Process**

All process shall be issued in the name of the State and signed by or in the name of the clerk. The clerk may designate subordinates to sign the clerk's name to such process.

**Note:** Source -- R.R. 7:4-3 (first unnumbered paragraph); amended November 7, 1988 to be effective January 2, 1989; amended June 29, 1990 to be effective September 4, 1990.