

Directive # 13-04
Supersedes Directive # 13-03 and
Memorandum to Assignment
Judges dated 12/18/00

To: ASSIGNMENT JUDGES

From: PHILIP S. CARCHMAN

**Subj: REVISION TO FORMS AND PROCEDURES GOVERNING BAIL AND BAIL
FORFEITURES**

Date: NOVEMBER 17, 2004

As a result of certain legislative changes as well as recent amendments to Rules 1:13-3, 3:26-6, 7:4-3 and 7:4-5, this Directive promulgates changes to various documents and procedures related to bail processing and bail forfeitures and judgments. The changes are being made on the recommendation of the Conference of Criminal Presiding Judges, the Conference of Presiding Judges, Municipal Courts and the Bail Forfeiture Judges.

This Directive supersedes both Directive # 13-03, issued December 17, 2003, and the December 18, 2000 Memorandum to Assignment Judges on this subject. The documents and procedures covered by this Directive are the following:

- (1) New Jersey Judiciary Bail Recognizance Form and Instructions (Superior and Municipal Courts)**
- (2) Joined Warrant and Order for Forfeiture (Superior Court)**
- (3) Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court)**
- (4) Default Judgment on Forfeited Recognizance Form (Superior and Municipal Courts)**
- (5) Consent Order (Superior Court)**
- (6) Remittitur Guidelines (Superior and Municipal Courts)**

Background

On November 1, 2000 the Supreme Court entered an Order, effective January 1, 2001, relaxing Rules 1:13-3, 3:26-6(a) and 7:4-5. The Order set forth notice requirements to corporate surety companies, licensed insurance producers and limited insurance representatives when a court ordered that bail is forfeited, or the court entered a judgment of default that could preclude a corporate surety company's licensed insurance producers and limited insurance representatives from writing bail in the Superior and Municipal Courts. The Order required notice to corporate sureties that failure to satisfy a judgment would result in the removal of the names of all the corporate surety company's, licensed insurance producers and limited insurance representatives from the Bail Registry until such time as the judgment was satisfied.

On June 11, 2002, the Supreme Court issued another relaxation Order modifying Rules 1:13-3(e), 3:26-6(a) and 7:4-5. The Order modified the time permitted to file an objection to set aside a forfeiture from 45 to 75 days.

On May 20, 2003, the Supreme Court issued an Order amending the Court's prior Orders to conform to statutory terminology changes effected by the *New Jersey Insurance Producer Licensing Act of 2001* (L. 2001, c. 210). The Court also issued an amendment to R. 1:13-3(d) as part of that order.

In June 2003 the Appellate Division decided three cases, State v. Harmon, 361 N.J. Super. 250 (App. Div. 2003), State v. Dillard, 361 N.J. Super. 184 (App. Div. 2003), and State v. Clayton, 361 N.J. Super. 388 (App. Div. 2003), setting parameters for remissions in certain instances.

On January 2, 2004, Governor McGreevey signed A-3012 into law as L. 2003, c. 202. The new law was effective immediately. It requires that a surety company register with the Clerk of the Superior Court the name and address of each bail agent or agency authorized by it to write bail, as well as the identity of any bail agent or agency providing a guarantee to the surety company for the satisfaction of any forfeited bail or bail judgments. The new law defines "bail agent or agency" as any person or entity that solicits, negotiates or sells bail bonds, or is affiliated in any manner with the execution of bail and is licensed as a limited lines insurance producer pursuant to L. 2001, c. 210 (N.J.S.A. 17:22A-26 et seq.), an insurance producer, or a limited insurance representative. The surety company is required to provide written notice to the Superior Court Clerk when its relationship with a bail agent or agency has been terminated or the bail agent or agency is no longer authorized by the surety company to write bail. The surety company's registration must include a certification from each listed bail agent or agency stating that the information provided is true and accurate. The

law further requires surety companies and bail agents to provide any additional information required by the New Jersey Rules of Court.

A bail agent or agency that fails to provide full, accurate and truthful information to the Clerk of the Superior Court as required under the law or fails to satisfy a judgment(s) for forfeited bail is subject to sanctions pursuant to N.J.S.A. 17:31-11.

In instances where a surety company, bail agent or agency files an appeal from a judgment or order enforcing the forfeiture of a bail bond, the law requires the surety company to deposit the full amount of the judgment or order in cash by certified, cashiers or bank check with the Clerk of the Superior Court or Supreme Court, as appropriate in accordance with N.J.S.A. 17:31-12. The law allows the posting of a supersedeas bond only on a showing of good cause, which shall not include an application by the surety to extend the time to forfeit the bond, to stay payment of a default judgment for forfeiture, or to extend the time to locate a defendant. See N.J.S.A. 17:31-12.

The law specifically provides that nothing in the law is to be construed to limit the authority of the Supreme Court to adopt rules or issue directives or procedures to preclude a surety company, or its bail agents or agencies from negotiating, soliciting or selling bail bonds on behalf of any defendant charged with a criminal or quasi-criminal offense pending in the Superior Court or Municipal Court. See N.J.S.A. 17:31-14.

The Supreme Court Civil Practice Committee, in its 2002-2004 report, recommended a revision to R. 1:13-3 and R. 2:9-6 to address the provisions of this new law. The Criminal Practice Committee, in its biennial report, recommended amendments to R. 3:26-6 to conform the rules to the Supreme Court Orders dated November 1, 2000, June 11, 2002 and May 20, 2003. The rule amendments also reflect the changes to statutory terminology made by the *New Jersey Insurance Producers Licensing Act of 2001* and L. 2003, c. 202 and provide for notice to sureties consistent with the changes being made to R. 1:13-3. Similarly the Municipal Court Practice Committee, in its 2002-2004 report, recommended amendments to R. 7:4-3 and R. 7:4-5 to also conform to the Supreme Court Orders. The various rule amendments were adopted by the Supreme Court on July 28, 2004 and became effective September 1, 2004.

Amended Forms and Processes

The statutory and rule amendments necessitate that the following forms and procedures be modified. Further, the language on each form has been conformed to ensure that terms are used consistently.

1. New Jersey Judiciary Bail Recognizance Form and Instructions (Superior and Municipal Courts) - Attachment A

The following is a summary of the major changes to the Bail Recognizance Form. In order to exhaust supplies of the existing form, the old form may be used until February 28, 2005. The new version must, however, be used on and after March 1, 2005.

(a) The Front of the Recognizance.

The front page of the recognizance form has been reorganized. As part of this reorganization, and in response to terminology used in the *New Jersey Insurance Producers Licensing Act of 2001* and L. 2003, c. 202, some words have been deleted or added. The following are the most significant changes on the front page. First, the form is no longer labeled as “confidential”. If a completed recognizance form is disseminated outside the Judiciary, the defendant’s social security number, which is and must remain confidential, will need to be redacted. That has been included in the instructions in Attachment A. Second, while the existing form has spaces to record information regarding a second surety, the new form requires that information regarding a second surety be placed on a separate recognizance form. Third, the old form has sections (on the bottom of the front page) entitled “Ownership for Cash Bail Deposited” and “Affidavit of Ownership for Cash Bail Deposited by Someone Other than the Defendant.” These two sections have been combined and reworded and the requirement for an affidavit has been replaced with a certification.

(b) The Back of the Recognizance.

There are two major revisions to the back page of the recognizance. First, the form now provides for the responsibilities of the defendant and sureties in distinct sections. This required some minor rewording. These changes are intended to make it easier for the defendant and the surety to know what their respective obligations are under the recognizance. Second, three responsibilities of corporate sureties have been added. See section 2, subsections (a), (b) and (c). These were added because they were factors stressed by the Appellate Division in the three June 2003 cases regarding determination of the amount to be remitted to a surety. See State v. Harmon, 361 N.J. Super 250 (App. Div. 2003), State v. Dillard, 361 N.J. Super. 184 (App. Div. 2003), and State v. Clayton, 361 N.J. Super. 388 (App. Div. 2003).

2. Joined Warrant and Order for Forfeiture (Superior Court) - Attachment B

No changes have been made to this form.

3. Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court) – Attachment C

The changes in this document are needed to comply with the new legislation.

4. Default Judgment on Forfeited Recognizance Forms (Superior and Municipal Courts) – Attachment D

The changes in these documents are needed to comply with the new legislation.

5. Consent Order (Superior Court) – Attachment E

The changes in this document are needed to comply with the new legislation.

6. Remittitur Guidelines – Attachment F

No changes have been made to these guidelines.

Attachments

cc: Chief Justice Deborah T. Poritz
Criminal Presiding Judges
Bail Forfeiture Judges
Municipal Presiding Judges
Theodore J. Fetter, Deputy Admin. Dir.
AOC Directors and Assistant Directors
Trial Court Administrators
Criminal Division Managers
Finance Division Managers
Municipal Division Managers
William McDonald, Management Services Div.
John Podeszwa, Municipal Court Services
John J. Wieck, Criminal Practice Div.
Florence S. Powers, Municipal Court Services
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

Attachment A

New Jersey Judiciary Bail Recognizance Form and Instructions (Superior and Municipal Courts)

| | | |
|--|---|--|
| Document Origination: <input type="checkbox"/> JAIL <input type="checkbox"/> SUPERIOR COURT <input type="checkbox"/> MUNICIPAL COURT <input type="checkbox"/> LAW ENFORCEMENT AGENCY _____ | <h2 style="margin:0;">NEW JERSEY BAIL RECOGNIZANCE</h2> <h3 style="margin:0;">With Waiver of Extradition</h3> | Bail Recognizance #: <hr/> Receipt Number: <hr/> CABS Number: <hr/> |
| | Court: Address: | Phone: Fax: |

| | | | |
|--------------------------|--------------------|-------------------------------|--------------------|
| Case Information: | COMPLAINT (CDR) #: | PROMIS/GAVEL #: | INDICTMENT/ACC. #: |
| CHARGE(S): | | WHERE OFFENSE OCCURRED | |
| | | MUNICIPALITY: | COUNTY: |

| | | | | | | | | | | | | | | | | | | | |
|--|--|-----------------------------------|----------------|-----------|----------|--|--|-------|--|-------|----------------|--|------|-------------------|--|--------------------|--|--|-----------------------------------|
| Defendant Information: State of New Jersey vs. _____ <i>Defendant</i> | <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">FIRST NAME</td> <td style="width:33%;">MIDDLE INITIAL</td> <td style="width:33%;">LAST NAME</td> </tr> <tr> <td colspan="3">ADDRESS:</td> </tr> <tr> <td colspan="2">CITY:</td> <td>STATE</td> </tr> <tr> <td colspan="2">DATE OF BIRTH:</td> <td>ZIP:</td> </tr> <tr> <td colspan="2">PHONE #: () -</td> <td>SOCIAL SECURITY #:</td> </tr> <tr> <td colspan="2"></td> <td>STATE BUREAU OF IDENTIFICATION #:</td> </tr> </table> | FIRST NAME | MIDDLE INITIAL | LAST NAME | ADDRESS: | | | CITY: | | STATE | DATE OF BIRTH: | | ZIP: | PHONE #: () - | | SOCIAL SECURITY #: | | | STATE BUREAU OF IDENTIFICATION #: |
| FIRST NAME | MIDDLE INITIAL | LAST NAME | | | | | | | | | | | | | | | | | |
| ADDRESS: | | | | | | | | | | | | | | | | | | | |
| CITY: | | STATE | | | | | | | | | | | | | | | | | |
| DATE OF BIRTH: | | ZIP: | | | | | | | | | | | | | | | | | |
| PHONE #: () - | | SOCIAL SECURITY #: | | | | | | | | | | | | | | | | | |
| | | STATE BUREAU OF IDENTIFICATION #: | | | | | | | | | | | | | | | | | |

| | | | | |
|--------------------------|--|---|------------------------------|-------------------|
| Bail Information: | AMOUNT OF BAIL SET: \$ | BAIL TYPE: <input type="checkbox"/> ROR <input type="checkbox"/> 10% CASH <input type="checkbox"/> FULL CASH | DATE BAIL SET: | BAIL SET BY: |
| | AMOUNT OF BAIL RECEIVED: \$ | FILING FEE RECEIVED: \$ | TOTAL AMOUNT RECEIVED: \$ | BAIL RECEIVED BY: |
| | PAYMENT TYPE: <input type="checkbox"/> CASH <input type="checkbox"/> CHECK # _____ <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> MONEY ORDER # _____ <input type="checkbox"/> BOND | | | |

| |
|---|
| SPECIAL CONDITIONS OF BAIL _____ _____ |
|---|

| | |
|--|---|
| IF MORE THAN ONE SURETY/INSURER IS INVOLVED, COMPLETE A SEPARATE BAIL RECOGNIZANCE FOR EACH. | |
| Non-Corporate Surety Information: <small>(PERSON POSTING CASH BAIL)</small> | Corporate Surety/Bail Agent Information: |
| FIRST NAME MIDDLE INITIAL LAST NAME | NAME OF INSURER (Corporate Surety Company) and NAIC number. Attach proof of authority with corporate seal affixed: |
| ADDRESS: | |
| ADDRESS: APT # | BAIL AGENT AND LICENSE #: |
| CITY: STATE: ZIP: | BAIL AGENCY AND LICENSE #: |
| PHONE #: DRIVER'S LIC. # OR OTHER FORM OF I.D.: | POWER OF ATTORNEY #: |
| () - | EXPIRATION DATE: |
| AS SURETY, I HAVE READ, UNDERSTAND AND AGREE TO THE CONDITIONS (SEE REVERSE) AND SPECIAL CONDITIONS OF THIS BAIL RECOGNIZANCE. | AS BAIL AGENT I HAVE READ, UNDERSTAND AND AGREE TO THE CONDITIONS (SEE REVERSE) AND SPECIAL CONDITIONS OF THIS BAIL RECOGNIZANCE. |
| DATE: SIGNATURE: | DATE: SIGNATURE: |

| | |
|--|---|
| Certification of Ownership for Cash Bail Deposited by Someone Other Than Defendant | |
| I, _____, am the lawful owner of the \$_____, deposited in lieu of bond on behalf of the defendant in the above entitled case. 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. | |
| _____ Date | _____ Signature of Lawful Owner of Cash Bail |

| | |
|--|----------------------|
| Defendant Agreement: I, the defendant, understand and agree that the owner of the bail posted in this case is _____. I also have read, understand, and agree to the Conditions (see reverse) AND Special Conditions of this Bail Recognizance. I further understand that I must appear at all scheduled court appearances. | |
| Court Date: ____/____/____ | Signature: _____ |
| Court Time: _____ AM / PM | Date: ____/____/____ |

| | | | |
|-----------------------|----------------------|---|--|
| Date Bail Discharged: | Date Bail Forfeited: | Please Notify Court Of Disability Accommodation Needs | |
|-----------------------|----------------------|---|--|

CONDITIONS OF RECOGNIZANCE

The parties to the Bail Recognizance understand and agree to be bound by the following conditions:

1. RESPONSIBILITY OF DEFENDANT:

- (a) The defendant must personally appear at all court proceedings until the final determination of the matter, unless otherwise ordered by the court. If the defendant fails to appear for a Superior Court proceeding, an ARREST WARRANT for the defendant will be issued. If the defendant fails to appear for a Municipal Court proceeding, an ARREST WARRANT for the defendant may be issued.
- (b) The defendant must notify the court immediately in writing of any change of address.
- (c) The defendant must notify the court immediately in writing if he or she is detained in jail or prison or otherwise cannot appear at a court proceeding.
- (d) If the defendant fails to appear at a scheduled court proceeding and is arrested in another state or jurisdiction, the defendant agrees to waive all rights to extradition proceedings under the New Jersey statutes and the demanding state's or jurisdiction's statutes in regard to extradition law.

2. RESPONSIBILITY OF CORPORATE SURETY (INSURER), BAIL AGENCY AND BAIL AGENT:

The insurer, bail agency and bail agent agree to be responsible for:

- (a) Producing the defendant for all court proceedings, unless otherwise authorized by the court;
- (b) Supervising the defendant while he or she is released on bail under the terms of this Recognizance;
- (c) Taking immediate steps to recapture the defendant should the defendant fail to appear for any court appearance;
- (d) Notifying the court immediately in writing of any change in the defendant's address;
- (e) Notifying the court immediately in writing if the defendant is detained in jail or prison or otherwise cannot appear at a court proceeding.

3. RESPONSIBILITY OF NON-CORPORATE SURETY (PERSON POSTING BAIL):

- (a) The person posting bail must notify the court immediately in writing of any change in the defendant's address.
- (b) The person posting bail must notify the court immediately in writing if the defendant is detained in jail or prison or otherwise cannot appear at a court proceeding.

4. JURISDICTION AND NOTICE:

- (a) Pursuant to R. 1:13-3(b), the parties to the Recognizance (principal and the surety) submit themselves to the jurisdiction of the court; that they irrevocably appoint the clerk of the court having jurisdiction as their agency upon whom papers affecting their liability on the bond may be served; that they waive any right to a jury trial; that the liability of the principal and surety may be enforced by motion in the action, if one is pending, without any necessity of an independent action; and that the motion may be served on the principal and surety by mailing it, by ordinary mail, to the clerk of the court, who shall forthwith mail copies thereof by ordinary mail to the principal and surety at the address stated in the Bail Registry.
- (b) Any notice of forfeiture will be served on the defendant and non-corporate sureties (persons posting bail) by ordinary mail at the addresses listed on this Recognizance. Any notice of forfeiture will be served on the corporate surety (insurer), bail agency and bail agent at the address listed in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3(b).

5. ADDITIONAL INFORMATION:

- (a) With a 10% cash bail option, the non-corporate surety, if other than the defendant, is responsible for the 10% deposit if the bail is forfeited and the defendant is responsible for the remaining 90%. If the defendant is the depositor he or she is responsible for the full amount of the bail if the bail is forfeited.
- (b) Bail will **NOT** be returned until discharged by the court. In municipal court the surety may be required to present the Bail Recognizance and show two forms of identification for the return of bail. Bail discharged by the Superior Court will be refunded by mail and, in most instances, will be refunded within ten to fourteen business days after the address has been verified.
- (c) When the defendant has been granted a conditional discharge or has been admitted into Pretrial Intervention (P.T.I.), bail will **NOT** be returned until the court makes a final determination.
- (d) The filing fee on indictable offenses is required to be paid upon execution of this Recognizance.
- (e) On breach of a condition of the Recognizance in Superior Court matters, the court will order a forfeiture of the bail on its own motion and a default judgment will be entered absent any objection seeking to set aside the forfeiture. On a breach of a condition of the Recognizance in Municipal Court matters, the court may order a forfeiture of the bail on its own or on the prosecuting attorney's motion and a default judgment may be entered.

I. INSTRUCTIONS FOR THE PREPARATION OF THE BAIL RECOGNIZANCE

The Bail Recognizance must be completed for indictable and non-indictable matters and whenever a bench warrant has been issued (including traffic matters) in the following situations:

1. Whenever full cash bail is accepted;
2. Whenever the court authorizes the defendant's release on defendant's own recognizance (ROR);
3. Whenever bail is satisfied by the deposit of 10% cash bail; or
4. Whenever a corporate surety posts bail.

A defendant shall, together with any sureties, complete and sign the Bail Recognizance before the person authorized to take bail (e.g. the court clerk, deputy clerk, municipal court administrator or deputy court administrator) or, if the defendant is in custody, the person in charge of the place of confinement. Please note that the amount of bail may be satisfied by more than one surety, if necessary. A bail recognizance should be completed for each surety.

A. Corporate Sureties - Bail Bonds

All corporate sureties must be approved by the Commissioner of Insurance to conduct business in this state. Further, surety bonds for purposes of bail may be accepted only from those insurers (also known as insurance companies or corporate surety companies) and bail agents or bail agencies (also known as limited lines insurance producers or bail bondsmen) who are registered by the insurance company with the Clerk of the Superior Court. The Clerk of the Superior Court maintains a Bail Registry (R. 1:13-3) of all insurance companies and their registered agents, who are authorized to write bail bonds. Therefore, to determine if an insurance company or a bail agent is authorized and registered, please refer to the Bail Registry available in RMDS, under "Jail," then under the title, "Surety Bond Registry". If a bail agent posts bail on behalf of a corporate surety company, that bail agent is required to execute the Bail Recognizance under that surety's duly acknowledged corporate seal, and shall attach to the bond written proof of the corporate authority and qualifications of the officers or agents executing the Bail Recognizance.

B. Cash Bail

In those circumstances when someone other than the defendant is posting cash bail, the Certification of Ownership, located at the bottom of the front of the form, must be completed in full. This portion of the document provides proof of ownership. The Certification of Ownership must be signed by the person depositing the cash bail. When all the conditions of the Recognizance have been satisfied and a determination of the case has been made, bail will be refunded to the individual identified in this Certification.

II. CONTROL, RESPONSIBILITY, PURCHASE AND INVENTORY

In the Superior Court:

Each Vicinage Finance Manager is responsible for the inventory and control of all New Jersey Judiciary Bail Recognizance forms. The forms are to be stored by the Finance Manager in a safe place until distributed for use.

In the Municipal Court:

Each judge of a central, joint or other municipal court is responsible for the inventory and control of all New Jersey Judiciary Bail Recognizance forms used by municipal court staff and the local law enforcement officers in accordance with applicable county or municipal purchasing procedures. Each judge (or court director or court administrator under the direction of the judge) shall arrange for the acquisition of the needed supply of the New Jersey Judiciary Bail Recognizance form in accordance with county or municipal purchasing procedures. Upon delivery, the judge (or court director or court administrator under the direction of the judge) shall inspect the forms for correctness. The New Jersey Judiciary Bail Recognizance forms are to be stored by the municipal court in a safe place until distributed to the municipal court staff and local law enforcement officers, as needed.

III. SPECIFICATIONS AND PRINTING

The New Jersey Judiciary Bail Recognizance form, in the form of the attached sample, should contain the following five parts: (1) Court/Finance; (2) Criminal Division; (3) Jail; (4) Surety; and (5) Defendant. The colors of each part are as follows:

- (1) Court/Finance - white
- (2) Criminal Division - green
- (3) Jail- canary
- (4) Surety - pink
- (5) Defendant - goldenrod

The text of each part of the Bail Recognizance, including the back of the form, is to be printed in black ink as it appears in the attached sample, including font size and appearance..

For Superior Court:

Order your vicinage New Jersey Judiciary Bail Recognizance form from the AOC Print Shop. Provide the Print Shop with the next sequential Bail Recognizance number so that the forms can be preprinted with this information.

For Municipal Courts:

When ordering the printing of the Bail Recognizance form have your court's name, address, telephone number and fax number preprinted at the top of the form in the designated

area.

Instruct the printer to leave the box blank, entitled "Bail Recognizance Number," located in the upper right hand corner of the form. That box is preprinted with the "Bail Recognizance Number" for Superior Court use only.

The size of the forms shall be 8 ½" X 11".

Use only "No Carbon Required" paper.

IV. PREPARATION OF THE BAIL RECOGNIZANCE

A. Front

Fill in all requested information on the New Jersey Judiciary Bail Recognizance form, if available.

The following are section-by-section instructions for completion of this form.

Top Section - New Jersey Bail Recognizance

Document Origination - Check the box where the Bail Recognizance was prepared. If you are a *Law Enforcement Agency* filling out this form, first check the designated box and then specify the name of your law enforcement agency on the line below.

Bail Recognizance Number – For Superior Court use only.

Receipt Number - Insert the receipt number.

CABS Number - For Superior Court use only.

Case Information

Complaint # - Insert the complaint number, as shown on the CDR –1 or CDR –2 or other authorized form of complaint (i.e. Uniform Traffic Ticket, Special Form of Complaint and Summons).

Promis/Gavel # - Enter the 8 digit Promis/Gavel # if available.

Indictment/Acc. # - Enter the Indictment or Accusation # if available.

Charge(s) - List the statute number(s) for the offense(s) charged and the descriptive title of the charge(s).

Where Offense Occurred – Insert the name of the municipality where the alleged offense occurred, followed by the county name.

Defendant Information

Fill in all requested defendant identifying information, if available.

NOTE: If this form is disseminated outside of the court system, the defendant's social security number must be redacted.

Bail Information

Amount of Bail Set - Insert the *full* dollar amount of the bail in the space provided. This amount does not include the \$30 filing and discharge fees.

Bail Type - Check the appropriate box that reflects the type of bail involved. For example, if the bail posted is in the form of 10% of the bail set, check the box marked "10% cash".

Date Bail Set - Insert the date that bail was set.

Bail Set By – Print the name of the person who set bail.

Amount of Bail Received - Insert the full amount of bail received from this surety.

Filing Fee - For indictable matters only, insert the dollar amount of the filing fee paid (\$30).

Total Amount Received - Insert the full "Amount of Bail Received" plus the dollar amount of the filing fee paid.

Bail Received By – Insert the name of the person accepting the "Total Amount Received."

Payment Type - Check the appropriate box to indicate how bail was paid. If payment is made by check or money order, insert the check or money order number. If a corporate surety posts the bail, no cash is involved except for the filing fee of \$30 for indictable matters.

Special Conditions of Bail – If the court imposed "Special Conditions of Bail" include them here.

Non-Corporate Surety Information (Person Posting Cash Bail)

If more than one surety is involved, complete a separate Bail Recognizance form for each.

Fill in all requested information.

For purposes of this section of the form, the surety is the one, other than a corporate surety company, who has posted the bail, and may be the defendant or a private individual.

The “Non-Corporate Surety” must date and sign this form in the designated space acknowledging that they have read, understand and agree to the conditions and special conditions of this Bail Recognizance.

Corporate Surety/Bail Agent Information

If more than one corporate surety company is involved, complete a separate Bail Recognizance form for each.

Fill in all requested information.

The “Corporate Surety/Bail Agent” must date and sign this form in the designated space acknowledging that they have read, understand and agree to the conditions and special conditions of this Bail Recognizance.

Certification of Ownership for Cash Bail Deposited by Someone Other Than Defendant

In all cases where the person posting the “cash bail” is someone other than the defendant, fill in the name of the person, and the total amount paid by this person in the designated space.

The person, other than the defendant, posting the “cash bail” must date and sign this form in the designated space certifying that he or she is the lawful owner of this cash amount.

Defendant Agreement

Insert in the designated space the name of the owner of the bail posted (refer to the Non-Corporate Surety or Corporate Surety Company information for the name of either the person posting the cash bail or the bail agent posting the bond).

Fill in the “Court Date” and the “Court Time” in the designated space, if available.

The defendant must sign and date the Bail Recognizance form in the designated space.

Bottom Section

Date Bail Discharged - When the Recognizance is discharged by a court order insert the date of the discharge.

Date Bail Forfeited - When the Recognizance is forfeited insert the date of the forfeiture.

Please Notify Court of Disability Needs - If the court is notified of disability accommodation needs, the matter should be immediately brought to the attention of the court staff responsible for handling these matters.

B. Back (CONDITIONS OF RECOGNIZANCE)

The parties to the Bail Recognizance must read and understand the Conditions of the Recognizance as set forth on the reverse side of the Bail Recognizance.

V. PROCEDURES FOR THE DISTRIBUTION OF THE COPIES OF THE BAIL RECOGNIZANCE

Once the Bail Recognizance has been completed, the multi-part form shall be distributed as follows:

(a) For non-indictable matters, the **white Court/Finance copy** of the Bail Recognizance is to be retained by the municipal court. For indictable matters, this copy is to be sent to the Vicinage Finance Manager in your county, in care of the Bail Unit. A photocopy should be made and retained by the municipal court.

(b) The **green Criminal Division copy** of the Bail Recognizance is to be sent to the Superior Court Criminal Division.

(c) If the defendant is in custody at the county jail, and bail is posted at a location other than the jail, fax or transport a copy of the Bail Recognizance to that jail immediately in order to facilitate the timely release of the defendant. If a copy was faxed, subsequently mail the **canary colored copy** to the county jail.

(d) Give the **pink copy** of the Bail Recognizance to the surety. In the event that the surety is not present, mail this copy to the surety by ordinary mail.

(e) Give the **goldenrod copy** of the Bail Recognizance to the defendant. In the event that the defendant is not present, mail this copy to him/her by ordinary mail.

VI. GLOSSARY OF TERMS

Bail: Bail is money or a bond deposited with the court in order to obtain the temporary release of the defendant on the condition that the defendant will appear in court, when required, and comply with the conditions of bail.

Bail Agent or Bail Agency: A bail agent or agency is any person or entity that solicits, negotiates or sells bail bonds, or is affiliated in any manner with the execution of bail and is licensed as a limited lines insurance producer or an insurance producer.

Bail Bond: A written undertaking, executed by the defendant or surety, that the defendant will

appear at any required court proceedings and that if the defendant fails to do so, the signers of the bond will pay to the court the amount of money specified in the court order setting bail.

Full Cash Bail or Cash Deposit: Full cash bail is when the court orders the defendant to deposit the full amount of money with the court. To be released, the defendant must pay the entire amount. For the purpose of cash bail, cash is defined as cash, check, money order or other form of authorized electronic payment (e.g., credit or debit card).

Corporate Surety: A corporate surety is an insurance company, authorized in this state to transact the kind of insurance that may be marketed through its representatives, known as *licensed insurance producers* and *limited lines insurance producers*. A licensed insurance producer is a person who is authorized to sell, solicit or negotiate multiple types of insurance, including bail bonds. A limited lines insurance producer is a person who is authorized to sell, solicit or negotiate limited lines insurance, such as bail bonds, or to engage in the business of an insurance consultant. An insurance company is required to register with the Clerk of the Superior Court the name and address of each licensed insurance producer and each limited lines insurance producer authorized by that company to write bail. Before completing a Bail Recognizance for a bail bond, the Surety Bond Registry, located in RMDS, is checked to ascertain that the bail agent is authorized to write bail.

Discharge (of bail): The discharge of bail is the release of the bail money to its lawful owner upon the conclusion of the case or on court order.

Filing Fee: The filing fee is set at \$30 by statute. The fee is assessed and collected only when bail is posted on an indictable matter. The fee is in addition to the bail amount and is forwarded with the bail to the Vicinage Finance Manager.

Insurer: (See Corporate Surety)

Non-Corporate Surety: A non-corporate surety is the person who posts bail.

Release on Own Recognizance (ROR): The release of an accused conditioned only upon the accused's promise to appear or written agreement to appear in court when required.

Recognizance: A recognizance is a bond or contractual obligation of record entered into, binding the defendant to be in court at all stages of the proceedings. It is a legal document pledging a sum of money subject to forfeiture, if the obligation is not fulfilled.

Ten Percent (10%) Cash Bail: Ten Percent Cash Bail refers to the posting of a cash deposit equal to 10% of the amount of bail set. This ten percent may be posted on any municipal court matter, unless otherwise specified in the court order setting the bail.

November 2004

Attachment B

Joined Warrant and Order for
Forfeiture (Superior Court)

SUPERIOR COURT OF NEW JERSEY
VICINAGE
LAW DIVISION - CRIMINAL

State of New Jersey

v.

Defendant

ORDER FOR
BENCH WARRANT
AND
BAIL FORFEITURE

Address: _____ INDICT/ACC/CO: _____
 _____ CASE/Def No: _____
 _____ AKA: _____
 _____ AKA: _____

| | |
|------------------|-------------------|
| SBI #: _____ | FBI #: _____ |
| BCI #: _____ | Sex: _____ |
| DOB: _____ | SSN: _____ |
| Eye Color: _____ | Hair Color: _____ |
| Height: _____ | Weight: _____ |

| <u>MOST SERIOUS CHARGE</u> | |
|----------------------------|----------------|
| Degree | Charge/Statute |
| | |
| | |
| | |

To the Sheriff of the County of _____, or Other Person Authorized by Law:

You are hereby commanded to arrest _____ and bring him/her before the Superior Court of New Jersey, _____ County, Law Division (Criminal Part).

It is on this _____ day of _____, _____ ORDERED that this warrant be issued for the Defendant's failure to appear before the Honorable _____ for:

Pre Arraignment Interview
 Trial
 Status Conf
 Other
 Arraignment/Status Conf
 Sentence
 VOP

It is further ORDERED that the Court is satisfied that a condition of the recognizance in this case has been breached by the defendant's failure to appear at the above court event and the recognizance is hereby forfeited.

 Court Clerk

 J.S.C.

Recognizance #: _____
 Power #: _____
 Type of Bail: _____

Surety: _____
 Company: _____
 Address: _____

For Arresting Authority Use Only

Execution Date: _____ Arresting Agency: _____
 Executed By: _____ Defendant Detained At: _____

Attachment C

Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court)

JUDICIARY CORPORATE SURETY BAIL FORFEITURE AND JUDGMENT PROTOCOL

Criminal and Finance Divisions

This revised protocol is established to set forth the procedures and responsibilities for financial and case processing of bail forfeitures and judgments in the Criminal and Finance Divisions of Superior Court. The protocol is being revised to comply with amendments to R. 3:26-6 and R. 1:13-3.

I. Breach of Recognizance

When a defendant breaches a condition of a recognizance by failing to appear at a court event, the following steps shall take place:

- A. The court, on its own motion, shall order a warrant for the defendant's arrest and forfeiture of the bail.
- B. The Criminal Division shall enter the forfeiture into PROMIS GAVEL and an electronic notice of the order of forfeiture will be sent to the Finance Division via the PROMIS GAVEL / CABS Interface.
- C. The Finance Division shall enter the forfeiture into CABS.
- D. The Finance Division shall mail the CABS generated notice of forfeiture to the insurer, bail agency and bail agent whose names appear on the recognizance at the address recorded in the Bail Registry. The Finance Division shall mail the CABS generated notice of forfeiture to the defendant and county counsel. The notice of forfeiture shall contain the following language:

“Judgment will be entered as to any outstanding bail absent a written objection seeking to set aside the forfeiture, which must be filed within 75 days of the date of this notice. Additionally, this is to notify the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it will be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will

have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.”

II. Procedure to be followed when a forfeited bail is reinstated.

- A. If the court orders reinstatement of a forfeited bail, the Criminal Division shall update PROMIS GAVEL and provide notice of the reinstatement to the Finance Division.
- B. The Finance Division will update the bail status in CABS.

III. Procedure to be followed if a motion is filed to set aside the bail forfeiture.

- A. The surety files a motion with the Criminal Division seeking to set aside the bail forfeiture.
- B. The Criminal Division will schedule a hearing date and enter the motion and scheduled date into PROMIS GAVEL.
- C. The Criminal Division will notify county counsel and the party filing the motion of the scheduled motion date.
- D. Once the motion is heard the Criminal Division will record the judge’s decision on the motion into PROMIS GAVEL and send a copy of the judge’s order to county counsel and the party that filed the motion.
- E. If the motion was granted, the Criminal Division will provide a copy of the judge’s order to the Finance Division. The Finance Division will update the bail status in CABS in accordance with the judge’s decision.

IV. Payment of Forfeiture Before Entry of Judgment

- A. All forfeiture payments are to be paid in the Finance Division with

the check made payable to “State of N.J. Bail Account.”

- B. The Finance Division shall enter the payment into CABS and deposit the funds.

V. Procedure to be followed to summarily enter a judgment, if a forfeiture is not set aside by the court or satisfied by the surety at the expiration of 75 days.

- A. The Finance Division will track all forfeitures and notify the Criminal Division when a forfeiture is 75 days old.
- B. The Finance Division will print a CABS generated judgment and send it to the Criminal Division. Judgments entered pursuant to R. 3:26-6(c) shall contain the following paragraph:

“This is to notify the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it will be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.”

- C. The Criminal Division will review the judgments to ensure that a motion has not been filed before submitting the judgment to the designated bail judge for signature.
- D. The Criminal Division will enter the date of the signed judgment order into PROMIS GAVEL.
- E. The Criminal Division will provide the original signed judgment to the Finance Division.
- F. The Finance Division will update the bail status in CABS.

- G. The Finance Division will mail a copy of the judgment to the insurer, bail agency and bail agent whose names appear on the recognizance at the address recorded in the Bail Registry.
- H. The Finance Division will forward a copy of the judgment to county counsel for collection.
- I. The Finance Division will send two copies of the judgment to the Clerk of the Superior Court indicating that the surety has failed to pay or file an objection pursuant to the rule.
- J. The Clerk of Superior Court will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days of the date of the notice it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agency or agent, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court will provide a copy of the notice to the Criminal and Finance Divisions.
- K. Unless an appeal is filed and a supersedeas bond posted or the judgment is satisfied within 15 days of the date of the notice, the Clerk of the Superior Court will remove the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State from the Bail Registry. In addition, the Clerk will remove the names of the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agency or bail agent shall not be accepted during the period that they are removed from the Bail Registry. The Clerk of the Superior Court shall forward a copy of the Order of Judgment to the Commissioner of the Department of Banking and Insurance,

Enforcement/Consumer Protection Unit, P.O. Box 329 Trenton, New Jersey 08625 with a cover letter requesting that the Department take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request for the Department to forward a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

- L. The Finance Division will immediately notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), when a judgment has been satisfied.
- M. Upon receipt of notice that all judgments contained in the preclusion notice issued to a insurer have been satisfied, the Clerk of the Superior Court will reinstate the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State to the Bail Registry. In addition, the Clerk of the Superior Court will reinstate the authority of the bail agency or agent, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond, to so act for any other insurer.

VI. Motions to Vacate Judgments

- A. The surety files a motion to vacate the judgment with the Criminal Division.
- B. The Criminal Division will schedule a hearing date for the motion and enter the date and schedule into PROMIS GAVEL.
- C. The Criminal Division will notify the party filing the motion and county counsel of the court date.
- D. The Criminal Division will notify the Clerk of the Superior Court if an order is entered to stay removal of the insurer, bail agency or agent from the Bail Registry prior to the motion to vacate being heard.
- E. The Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and notify the Finance Division if the motion is granted.
- F. The Finance Division will update the bail status in CABS in accordance with the judge's decision.
- G. The Criminal Division will notify the Clerk of the Superior Court of

the decision on the motion only if the outcome on the motion vacates the judgment.

VII. Procedure to follow if an appeal is filed and a supersedeas bond is requested.

- A. The surety files a motion with the Criminal Division seeking to file a supersedeas bond.
- B. The Criminal Division will schedule a date for hearing the motion and enter the motion and schedule into PROMIS GAVEL.
- C. The Criminal Division will notify the party filing the motion and the county counsel of the court date.
- D. If the judge grants the motion to post a supersedeas bond, the Criminal Division will send a copy of the judge's order to the Finance Division.
- E. The Finance Division will immediately notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), once a supersedeas bond has been posted to assure that the Clerk of the Superior Court does not remove the names of the insurer, bail agency or agent from the Bail Registry.
- F. The Finance Division will attach the supersedeas bond to the original bond.
- G. The Criminal Division will notify the Finance Division and the Clerk of the Superior Court when an appeal has been concluded.

VIII. Procedures for Consent Orders

- A. Whenever county counsel and a surety reach an agreement to satisfy a judgment, county counsel shall provide the Criminal Division with the uniform Consent Order form for submission to the designated bail judge.
- B. The Criminal Division will provide the original signed consent order to the Finance Division and send a copy to the county counsel. A copy of the Consent Order will also be sent to the Clerk of the Superior Court if the consent order is entered after the judgment has been sent to the Clerk of the Superior Court.
- C. The Criminal Division will record the judge's decision on the Consent Order into PROMIS GAVEL.
- D. The Finance Division shall monitor the compliance of the terms of the uniform Consent Order.

IX. Procedures to be followed when a surety fails to abide by the Consent Order where a judgment was previously entered.

- A. The Finance Division will track Consent Orders, payment schedules and payments and upon failure to pay according to the consent order, the Finance Division shall notify county counsel and the Clerk of the Superior Court that the surety has failed to pay pursuant to the Consent Order and that, pursuant to the consent order, the judgment is reinstated.
- B. The Finance Division will mail a copy of the notice to the insurer, bail agency and bail agent whose name appears on the recognizance at the address recorded in the bail registry advising them that the judgment is being reinstated due to the failure to abide by the Consent Order previously entered.
- C. The Clerk of Superior Court will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the original judgment within 48 hours it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.
- D. The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, Enforcement/Consumer Protection Unit, P.O. Box 329 Trenton, New Jersey 08625 with a cover letter requesting that the Department take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request for the Department

to forward a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

X. Procedure to be followed when a surety fails to abide by the consent order and a judgment was not previously entered.

- A. The Finance Division will track consent orders, payment schedules and payments and upon failure to pay according to the consent order, the Finance Division shall notify the Criminal Division that the surety has failed to abide by the consent order.
- B. Pursuant to the consent order, a judgment can be entered without further notice for the original amount of the bond. The Finance Division will generate the order for judgment for signature by the judge.
- C. The Criminal Division will enter the date of the signed judgment into Promis Gavel
- D. The Criminal Division will provide the original signed judgment to the Finance Division.
- E. The Finance Division will update the bail status in CABS.
- F. The Finance Division will mail a copy of the judgment to the insurer, bail agency and bail agent whose name appears on the recognizance at the address recorded in the bail registry.
- G. The Finance Division will forward a copy of the judgment to county counsel for collection.
- H. The Finance Division will send a copy of the judgment to the Clerk of the Superior Court.
- I. The Clerk of the Superior Court will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court

will provide a copy of the notice to the Criminal and Finance Divisions.

- J. Unless an appeal is filed and a supersedeas bond is posted or the judgment is satisfied within 15 days, the Clerk of the Superior Court will remove the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State from the Bail Registry until such time as the judgment has been satisfied. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.
- K. The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, Enforcement/Consumer Protection Unit, P.O. Box 329 Trenton, New Jersey 08625 with a cover letter requesting that the Department take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request for the Department to forward a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.
- L. The Finance Division will immediately notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), when a judgment has been satisfied.
- M. Upon receipt of notice that all judgments contained in the preclusion notice issued to an insurer have been satisfied, the Clerk of the Superior Court will reinstate the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State to the Bail Registry. In addition, the Clerk of the Superior Court will reinstate the authority of the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond, to so act for any other insurer.

XI. Satisfaction of Judgment

- A. All judgment payments are to be paid in the Finance Division with the check made payable to "State of N.J. Bail Account".
- B. The Finance Division shall enter the payment into CABS and deposit the funds.
- C. The Finance Division will notify the Clerk of the Superior Court when a judgment that has been forwarded to the Clerk of the Superior Court under this protocol has been paid so that the insurer, bail agent or agency may be reinstated in the Bail Registry. In order to enable the Clerk of the Superior Court to reinstate promptly, this notice shall be provided to the Clerk by facsimile at (609) 292-6564 or by telephone at (609) 292-4987. Such notice shall include the following information:
 - (1) the name of the defendant;
 - (2) the name of the insurer;
 - (3) the date of the forfeiture or Order of Judgment, and
 - (4) the date the judgment or forfeiture was paid.

[Revised and reissued November 2004 by Directive #13-04.]

Attachment D

Default Judgment on Forfeited
Recognizance Forms
(Superior and Municipal Courts)

Defendant

Insurer

Bail Agency

Bail Agent

CABS # _____

RECOGNIZANCE# _____

INDICTMENT OR CDR # _____

POWER OF ATTORNEY # _____

**DEFAULT JUDGMENT ON FORFEITED CORPORATE BAIL BONDS
AND NOTICE OF REMOVAL**

THE COURT on its own motion having ordered forfeiture of bail in the above matter, and the Court having sent notice of forfeiture in accordance with R. 3:26-6(a), and no written objection having been filed to set aside the forfeiture within 75 days of the notice of forfeiture and, the forfeiture not having been satisfied;

IT IS THEREFORE ORDERED ON THIS _____ day of _____, 20____, that judgment is hereby entered in favor of the State of New Jersey and the County of _____ and against _____ (defendant), and _____ (insurer), _____ (bail agency) and/or _____ (bail agent) in a bail recognizance forfeited on ____/____/____ in the amount of \$ _____; and

IT IS FURTHER ORDERED that the amount listed above shall be payable to "The State of New Jersey Bail Account" and that the amount shall be distributed proportionately between the State of New Jersey and the County of _____ .

IT IS FURTHER ORDERED that the Court shall serve a copy of this judgment by ordinary mail on all persons listed below in the distribution list.

This is to notify the insurer that if it fails to satisfy this judgment, and until satisfaction is made, it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.

Distribution:
Clerk of Superior Court
County Counsel
Criminal Division Manager
Finance Division Manager

Defendant
Insurer
Bail Agency
Bail Agent

J.S.C.

STATE OF NEW JERSEY
v.

MUNICIPAL COURT OF _____
_____ COUNTY

ORDER OF DEFAULT JUDGMENT

Defendant

Insurer

Bail Agency

Bail Agent

BAIL TYPE _____

COMPLAINT # _____

POWER OF ATTORNEY # _____

SURETY COMPANY # _____

ADDRESS _____

**DEFAULT JUDGMENT ON FORFEITED RECOGNIZANCE
AND NOTICE OF REMOVAL**

THE COURT on motion has previously ordered the forfeiture of bail in the above matter and has sent notice of said forfeiture in accordance with R. 7:4-5. No written objection seeking to set aside the forfeiture was filed within 75 days of the notice of forfeiture nor has the forfeiture been satisfied;

IT IS THEREFORE ORDERED ON THIS _____ day of _____, 20____, that pursuant to R. 7:4-5(c) judgment of default is hereby entered in favor of the Municipality of _____ in the County of _____ and against defendant _____ and _____ as surety in a Bail Recognizance forfeited on ____/____/____ in the sum of \$ _____; and

IT IS FURTHER ORDERED that the aforesaid sum shall be payable to "The Municipality of _____"; and

IT IS FURTHER ORDERED that the Court shall serve a copy of this judgment by ordinary mail on all persons listed below in the distribution list.

This is to notify the insurer that if it fails to satisfy this judgment, and until satisfaction is made, it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.

J.M.C.

Distribution:
Clerk of Superior Court
Municipal Attorney
Defendant

Insurer
Bail Agency
Bail Agent

Attachment E

Consent Order
(Superior Court)

STATE OF NEW JERSEY
v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL
_____ COUNTY

Defendant

CABS #: _____

Insurer

RECOGNIZANCE#: _____

Bail Agency

INDICTMENT OR CDR #: _____

Bail Agent

POWER OF ATTORNEY #: _____

Total of Bond: _____

Date Posted: _____

**CONSENT ORDER TO VACATE BAIL FORFEITURE AND/OR JUDGMENT
AND DISCHARGE THE BOND UPON PAYMENT**

THIS MATTER having been opened to the Court on _____ by
_____ attorney for _____, and the Court
having considered the papers submitted, and _____, Assistant County
Counsel having consented hereto, and for good cause shown,

IT IS THEREFORE ORDERED ON THIS _____ day of _____, 20__, that
_____ shall pay the sum of \$_____, on or before
_____, which sum shall be distributed proportionally between the State of New
Jersey and the County of _____; and

IT IS FURTHER ORDERED that the bail forfeiture and/or judgment entered shall be
vacated and the bond discharged upon the State's receipt of the aforesaid payment; and

IT IS FURTHER ORDERED that if the aforesaid amount is not paid to the State of New
Jersey within the time set forth herein, this consent order will become null and void, the original
amount of the bail bond will be immediately due and owing to the State of New Jersey, and a
default judgment previously entered will remain in full force and effect; and

IT IS FURTHER ORDERED that if a forfeiture was ordered but a judgment has not been
entered, then the parties agree to waive the requirement contained in R. 3:26-6(a) that a
judgment not be entered until 75 days after the forfeiture was ordered, and a default judgment
shall be entered immediately for the original amount of the bail bond; and

IT IS FURTHER ORDERED that a copy of this Order be served upon all parties within
___ days of the date hereof.

This is to notify the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it shall be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.

Judge

We hereby consent to the form
and entry of this Order

Assistant County Counsel

Attorney for Surety

Distribution:

Clerk of Superior Court
County Counsel
Criminal Division Manager
Finance Division Manager

Defendant
Insurer
Bail Agency
Bail Agent

Revised 11/04

Attachment F

Remittitur Guidelines (Superior and Municipal Courts)

REMISSION OF A FORFEITURE

A party seeking to set aside or remit a forfeiture bears the burden of proving that “it would be inequitable to insist upon forfeiture and that forfeiture is not required in the public interest.” State v. Childs, 208 N.J. Super. 61, 64 (App. Div.), *certif. denied* 104 N.J. 430 (1986); State v. Mercado, 329 N.J. Super. 265, 269-270 (App. Div. 2000).

The court may direct that a forfeiture be set aside if its enforcement is not required in the interests of justice. R. 3:26-6(b). Remission, in whole or in part, may be ordered even after the entry of a judgment of default in the interest of justice. R. 3:26-6(c). The decision to remit bail, as well as the amount of bail to remit, are matters within the sound discretion of the trial judge to be exercised in the public interest. State v. Peace, 63 N.J. 127, 129 (1973); State v. Mercado, 329 N.J. Super. at 270; State v. de la Hoya, 359 N.J. Super. 194, 198 (App. Div. 2003); State v. Harmon, 361 N.J. Super. 250, 254 (App. Div. 2003). The exercise of that discretion must be consistent with the policy concerns expressed in State v. de la Hoya, 359 N.J. Super. at 198 and informed by the standards articulated in State v. Hyers, 122 N.J. Super. 177, 180 (App. Div. 1973).

POLICY CONCERNS TO CONSIDER IN DETERMINING REMISSION

The following are “overarching” policy concerns that the Appellate Division has said should be considered in informing the exercise of discretion as to whether to remit and the amount to be remitted. State v. Mercado, 329 N.J. Super. at 199.

1. The necessity of providing an incentive to the surety to take active and reasonable steps to recapture a fugitive defendant. State v. de la Hoya, 359 N.J. Super. at 199.
2. The fact that if remission were unreasonably withheld, corporate sureties might be overcautious in their willingness to post bail, resulting in an impairment of an accused’s constitutional right to pretrial bail. State v. de la Hoya, 359 N.J. Super. at 199.

FACTORS TO WEIGH IN DETERMINING REMISSION

The following factors need to be weighed, within the framework of the policy concerns, in determining whether to remit bail and the amount to be remitted:

1. Whether the surety has made a reasonable effort under the circumstances to effect the recapture of the fugitive defendant. State v. Mercado, 329 N.J. Super. at 271; State v. Harmon, 361 N.J. Super. at 255.
2. Whether the applicant is a commercial bondsman. State v. Hyers, 122 N.J. Super. at 180; State v. Harmon, 361 N.J. Super. at 255.
3. The surety’s supervision of the defendant while he or she was released on bail. State v. Hyers, 122 N.J. Super. at 180; State v. Harmon, 361 N.J. Super. at 255.

4. The length of time the defendant is a fugitive. State v. Hyers, 122 N.J. Super. at 180; State v. Harmon, 361 N.J. Super. at 255.
5. The prejudice to the State, and the expense incurred by the State, as a result of the fugitive's non-appearance, recapture and enforcement of the forfeiture. State v. Hyers, 122 N.J. Super. at 180; State v. Harmon, 361 N.J. Super at 255.
6. Whether the reimbursement of the State's expenses will adequately satisfy the interests of justice. State v. Harmon, 361 N.J. Super at 255. The detriment to the State also includes the intangible element of injury to the public interest where a defendant deliberately fails to make an appearance in a criminal case. State v. Peace, 63 N.J. 127, 129 (1973).
7. The defendant's commission of another crime while a fugitive. State v. de la Hoya, 359 N.J. Super. at 200; State v. Harmon, 361 N.J. Super at 255.
8. The amount of the posted bail. In determining the amount of a partial remission, the court should take into account not only an appropriate percentage of the bail but also its amount. State v. de la Hoya, 359 N.J. Super. at 199.

BALANCING OF FACTORS

The court's primary focus, especially when the defendant has remained a fugitive for a significant period of time, should be upon the surety's efforts to secure the defendant's return, rather than upon the expenses incurred by the State as a result of the defendant's failure to appear or prejudice to the State's case caused by the defendant's absence. State v. Mercado, 359 N.J. Super. at 271; State v. de la Hoya, 359 N.J. Super. at 199; State v. Harmon, 361 N.J. Super at 255.

GUIDELINES

The following are a broad set of guidelines that have been developed to provide judges with a **starting point** when determining whether to grant a remission, and, if so, the amount to remit. Obviously, the particular facts in an individual case will determine whether the amount to remit is increased or decreased. The genesis for developing some of the guidelines was derived from recent Appellate Division decisions.

WHERE DEFENDANT IS A FUGITIVE WHEN REMISSION MOTION IS MADE

No Remission

Where the defendant remains a fugitive when the remission motion is made, the essential undertaking of the surety remains unsatisfied, and the denial of any remission is entirely appropriate. State v. Harmon, 361 N.J. Super at 255.

**WHERE DEFENDANT IS NOT A FUGITIVE WHEN REMISSION MOTION IS MADE
AND**

DEFENDANT DID NOT COMMIT A NEW CRIME WHILE A FUGITIVE

Minimal Remission

Where the surety provided minimal or no supervision while the defendant was out on bail and failed to engage in immediate substantial efforts to recapture the defendant, minimal remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE:

State is reimbursed its costs.

| | |
|--------------------------------------|-----------------------------------|
| If time at large 6 months or less | 20% of the balance remitted |
| If time at large between 6-48 months | 5% to 20% of the balance remitted |
| If time at large over 48 months | 0% to 5% of the balance remitted |

Partial Remission

Where the surety provided minimal or no supervision while the defendant was out on bail but did engage in immediate substantial efforts to recapture the defendant;

or

Where the surety provided close supervision while the defendant was out on bail but did not engage in immediate substantial efforts to recapture the defendant;

Partial remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE:

State is reimbursed for its costs.

| | |
|--------------------------------------|------------------------------------|
| If time at large 6 months or less | 75% of the balance remitted |
| If time at large between 6-48 months | 20% to 75% of the balance remitted |
| If time at large over 48 months | 0% to 20% of the balance remitted |

Substantial Remission

Where the surety provided close ongoing supervision while the defendant was out on bail and made immediate substantial efforts to recapture the defendant, substantial remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE:

Surety is reimbursed for its costs.

State is reimbursed for its costs.

| | |
|--------------------------------------|------------------------------------|
| If time at large 6 months or less | 95% of the balance remitted |
| If time at large between 6-48 months | 75% to 95% of the balance remitted |
| If time at large is over 48 months | 0% to 75% of the balance remitted |

**WHERE DEFENDANT NOT A FUGITIVE WHEN REMISSION MOTION MADE
AND**

DEFENDANT DID COMMIT A NEW CRIME WHILE A FUGITIVE

Minimal Remission

Where the surety provided minimal or no supervision while the defendant was out on bail and failed to engage in immediate substantial efforts to recapture the defendant, minimal remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE:

State is reimbursed its costs.

| | |
|------------------------------------|-----------------------------|
| If time at large 12 months or less | 10% of the balance remitted |
| If time at large over 12 months | 10% to no remission |

Partial Remission

Where the surety provided minimal or no supervision while the defendant was out on bail but did engage in immediate substantial efforts to recapture the defendant;

OR

Where the surety provided close supervision while the defendant was out on bail but did not engage in immediate substantial efforts to recapture the defendant;

Partial remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE:

State is reimbursed for its costs.

| | |
|--------------------------------------|------------------------------------|
| If time at large 6 months or less | 40% of the balance remitted |
| If time at large between 6-48 months | 10% to 40% of the balance remitted |
| If time at large over 48 months | 0% to 10% of the balance remitted |

Substantial Remission

Where the surety provided close ongoing supervision while the defendant was out on bail and made immediate substantial efforts to recapture the defendant, substantial remission is warranted subject to the weighing of the factors previously identified.

REMISSION GUIDELINE

Surety is reimbursed for its costs.
State is reimbursed for its costs.

| | |
|--------------------------------------|------------------------------------|
| If time at large 6 months or less | 60% of the balance remitted |
| If time at large between 6-48 months | 40% to 60% of the balance remitted |
| If time at large is over 48 months | 0% to 40% of the balance remitted |