

SUPREME COURT OF NEW JERSEY

NOTICE TO THE BAR

Questions or comments may be directed to (609) 292-3619 (Superior Court) or to (609) 292-9633 (Municipal Court).

December 14, 2000

DIRECTIVE # 7 - 00

Supersedes Directive #5-00

MEMORANDUM TO: Assignment Judges

FROM: Richard J. Williams

RE: Amendments to the Procedures for Enforcement of Corporate Surety Bail Forfeitures, Judgments and Breaches of Recognizance

This Directive supersedes Directive #5-00 (issued June 21, 2000) to conform to the attached Supreme Court Order, dated November 1, 2000. This Directive takes effect January 2, 2001.

By way of background, certain revisions to R. 3:26-6 governing bail forfeiture took effect on September 1, 1998. That rule change affected how bail forfeitures are entered, noticed, and converted into judgments. In accordance with those rule amendments, Directive #5-00, which superseded Directive #15-76, contained revised procedures for the enforcement of bail forfeitures and judgments. As a result of the Supreme Court's November 1, 2000 Order, additional notice must be given to corporate surety companies and others in connection with bail forfeitures and judgments in Superior and Municipal Court cases. This superseding Directive incorporates those further notice requirements.

1. Breach of Recognizance

a. In the Superior Court:

- (1) Upon breach of a condition of recognizance, the court on its own motion shall order forfeiture of bail. (R. 3:26-6(a)).
- (2) The court shall forthwith send notice of the forfeiture to the county counsel, the defendant, the surety, and its agent. (R. 3:26-6(a)). The notice should include the following: docket number, defendant's name, amount of the bond, date of forfeiture, the name of the corporate surety as shown on the power of attorney, the name of the attorney-in-fact, and the number of the power of attorney.
- (3) The notice of forfeiture shall direct that judgment will be entered as to any outstanding forfeited bail absent a written objection seeking to set aside the forfeiture, which objection must be filed within 45 days of the date of the notice. (R. 3:26-6(a)).
- (4) The notice of forfeiture under R. 3:26-6(a) shall contain the following language:
Failure to satisfy a forfeiture or file a motion to vacate the forfeiture within 45 days of the date of the notice of forfeiture will result in the entry of a judgment and removal of the names of all of a corporate surety company's licensed insurance producers and limited insurance representatives (bail bondsmen) from the Bail Registry maintained by the Clerk of the Superior Court pursuant to Rule 1:13-3(e).
- (5) The notice of forfeiture under R. 3:26-6(a) shall be served by ordinary mail on the corporate surety company and the licensed insurance producer or the limited insurance representative named on the Bail Recognizance at

the address recorded in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3(e).

(6) When a forfeiture is not set aside or satisfied at the expiration of 45 days, the court shall summarily enter a judgment for the full amount of the recognizance. (R. 3:26-6(c)). A copy of the judgment shall then be sent to the Clerk of the Superior Court.

b. In the Municipal Courts:

(1) Pursuant to R. 7:4-5(a), upon breach of the condition of a recognizance, the court may forfeit the bail on its own motion or on the prosecuting attorney's motion. If bail is ordered to be forfeited, the municipal court administrator or deputy court administrator shall forthwith forfeit the bail in accordance with R. 7:4-3(e).

(2) When bail is ordered forfeited pursuant to R. 7:4-5(a), the Municipal Court Administrator or Deputy Court Administrator shall serve notice of forfeiture by ordinary mail on the defendant and the surety, including any corporate surety company, licensed insurance producer and limited insurance representative whose names appear on the Bail Recognizance, that judgment will be entered as to any outstanding bail, absent a written objection within 45 days of the notice seeking to set aside the forfeiture.

(3) Whenever notice of forfeiture is issued, the notice shall be sent to the address of the corporate surety company, licensed insurance producer and limited insurance representative, as recorded in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3(e).

(4) Whenever notice of forfeiture is issued, the notice shall provide that failure to pay the bail or to file a timely written objection seeking to set aside the forfeiture will result in the entry of a judgment and removal from the Bail Registry of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives in accordance with R. 1:13-3(e).

(5) R. 7:4-5 shall be interpreted so as to require the court to review a timely filed objection on its merits and, in the discretion of the court, for good cause shown, to order a prejudgment hearing thereon.

2. Judgments in the Superior Court

The court shall direct that when a judgment is entered:

a. The judgment shall state that payments are to be made payable to the "State of New Jersey Bail Account."

b. Judgments entered pursuant to R. 3:26-6(c) shall contain the following paragraph:

Failure to satisfy a judgment will result in removal of the names of all of a corporate surety company's licensed insurance producers and limited insurance representatives (bail bondsmen) from the Bail Registry maintained by the Clerk of the Superior Court pursuant to Rule 1:13-3(e) until such time as the judgment has been satisfied.

c. A copy of a judgment entered pursuant to R. 3:26-6(c) shall be served by ordinary mail on the corporate surety company and the licensed insurance producer or the limited insurance representative named in the judgment at the address recorded in the Bail Registry maintained by the Clerk of the Superior Court.

d. Upon the failure of a corporate surety to pay a forfeiture or to file a motion to vacate the forfeiture within forty-five (45) days of the date of the notice sent pursuant to R. 3:26-6, the court shall send a copy 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.

3. Judgments in the Municipal Courts

a. Upon the failure of a corporate surety to pay a forfeiture or to file a motion to vacate the forfeiture within forty-five (45) days of the date of the notice sent pursuant to R. 7:4-5(a), as relaxed and supplemented by the Supreme Court Order dated November 1, 2000, the court, on motion, shall enter a judgment of default. R. 7:4-

5(c).

b. Judgments entered pursuant to R. 7:4-5(c) shall include the following language:

Failure to satisfy the judgment will result in removal of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives from the Bail Registry.

c. The judgment shall state that payments are to be made payable to the "Municipality of _____."

d. A copy of a judgment entered pursuant to R. 7:4-5(c) against a corporate surety company shall be served by ordinary mail on the corporate surety company, the licensed insurance producer and the limited insurance representative named in the judgment at the address recorded in the Bail Registry maintained by the Clerk of the Superior Court.

e. Pursuant to R. 7:4-5(a), as relaxed and supplemented by the Supreme Court Order dated November 1, 2000, a copy of the judgment shall be sent by ordinary mail to the Clerk of the Superior Court indicating that the surety has failed to pay or to file an objection.

4. Removal from and Reinstatement to the Bail Registry - Procedures in the Superior and Municipal Courts

a. Upon receipt of a judgment entered pursuant to R. 3:26-6(c) or R. 7:4-5(c) the Clerk of the Superior Court shall serve notice, by certified mail, return receipt requested, on the corporate surety company whose name appears on the judgment, at the address of the corporate surety company as recorded in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3(e). The notice shall provide that failure to satisfy the judgment within 15 days of the date of the notice will result in the removal of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives from the Bail Registry until such time as the judgment has been satisfied.

b. The Clerk of the Superior Court shall thereupon remove from the Bail Registry the names of any licensed insurance producers and limited insurance representatives authorized to write bail for the corporate surety company. Bail bonds from the corporate surety company, licensed insurance producers and limited insurance representatives shall not be accepted during the period that they are removed from the Bail Registry.

c. 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, NJ 08625, with a cover letter requesting that the Department take steps to obtain payment of the judgment in accordance with their regulatory authority without the necessity of executing on the judgment. The Clerk's cover letter should 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.

d. It is the responsibility of the Superior Court or the Municipal Court Administrator or Deputy Court Administrator to send notice to the Clerk of the Superior Court of the payment of any bail forfeiture or satisfaction of any judgment so that corporate surety company, licensed insurance producers and limited insurance representatives 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 (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 corporate surety company; (3) the date of the Order of Judgment; and (4) the date the bail forfeiture was paid.

ORDER

Re: Notice Requirements to Corporate Surety Companies, Licensed Insurance Producers and Limited Insurance Representatives Regarding Bail Forfeitures and Judgments

It is ORDERED that effective January 2, 2001, Rules 1:13-3(e), 3:26-6(a) and 7:4-5 are relaxed and supplemented to set forth requirements for notice to corporate surety companies, licensed insurance producers, and limited insurance representatives when a court orders bail forfeited or enters 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; and it is further

ORDERED that the notice of forfeiture under Rule 3:26-6(a) shall be served by ordinary mail on the corporate surety company, the licensed insurance producer, and the limited insurance representative(s) named on the Bail Recognizance at the address recorded in the Bail Registry; and it is further

ORDERED that judgments entered pursuant to Rule 3:26-6(c) will include notice that failure to satisfy the judgment will result in removal of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives from the Bail Registry; and it is further

ORDERED that a copy of a judgment entered pursuant to Rule 3:26-6(c) will be served by ordinary mail on the corporate surety company, the licensed insurance producer, and the limited insurance representative(s) named in the judgment at the address recorded in the Bail Registry; and it is further

ORDERED that when bail is ordered forfeited pursuant to Rule 7:4-5(a), the municipal court administrator or deputy court administrator shall serve notice by ordinary mail on the defendant and the surety, including any corporate surety company, licensed insurance producer, and limited insurance representative(s) whose names appear on the Bail Recognizance, that judgment will be entered as to any outstanding bail, absent a written objection, seeking to set aside the forfeiture, within 45 days of the notice; and it is further

ORDERED that whenever notice of forfeiture is issued pursuant to Rule 7:4-5(a) to a corporate surety company, licensed insurance producer, and limited insurance representative(s) named on the Bail Recognizance, the notice shall be sent to the address of the corporate surety company, licensed insurance producer, and limited insurance representative(s) recorded in the Bail Registry; and it is further

ORDERED that whenever notice of forfeiture is issued pursuant to Rule 7:4-5(a) to a corporate surety company, licensed insurance producer, or limited insurance representative(s), the notice of forfeiture shall provide that failure to pay the bail or file a timely written objection seeking to set aside the forfeiture will result in the entry of a judgment and removal from the Bail Registry of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives in accordance with Rule 1:13-3(e); and it is further

ORDERED that a copy of a judgment entered pursuant to Rule 7:4-5(c) against a corporate surety company will be served by ordinary mail on the corporate surety company, the licensed insurance producer, and the limited insurance representative(s) named in the judgment at the address recorded in the Bail Registry; and it is further

ORDERED that judgments entered pursuant to Rule 7:4-5(c) will include notice that failure to satisfy the judgment will result in removal of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives from the Bail Registry; and it is further ORDERED that on receipt of a judgment entered pursuant to Rule 3:26-6(c) or 7:4-5(c), the Clerk of the Superior Court will serve notice, by certified mail, return receipt requested, on the corporate surety company, whose name appears on the judgment, at the address of the corporate surety company recorded in the Bail Registry that failure to satisfy the judgment within 15 days of the date of the notice will result in the removal of the names of all of the corporate surety company's licensed insurance producers and limited insurance representatives from the Bail Registry until such time as the judgment has been satisfied; and it is further

ORDERED that Rules 3:26-6 and 7:4-5 shall be interpreted to require the court to review a timely filed objection on its merits and, in the discretion of the court, for good cause shown, to order a prejudgment hearing thereon; and it is further

ORDERED that Directive #5-00 be revised and reissued to comply with the provisions of this Order.

For the Court

Deborah T. Poritz

C.J.

Dated: November 1, 2000

[Notices to the Bar](#)