

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rules 1:2-4, 7:8-9, 7:8-9A (new), and 7:9-5 (new) of the Rules Governing the Courts of the State of New Jersey are adopted to be effective September 1, 2018.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosenberg", is written over a horizontal line.

Chief Justice

Dated: July 17, 2018

1:2-4. Sanctions: Failure to Appear; Motions and Briefs

(a) Failure to Appear. Except as provided in R. 7:8-9A, if [If] without just excuse or because of failure to give reasonable attention to the matter, no appearance is made on behalf of a party on the call of a calendar, on the return of a motion, at a pretrial conference, settlement conference, or any other proceeding scheduled by the court, or on the day of trial, or if an application is made for an adjournment, the court may order any one or more of the following: (a) the payment by the delinquent attorney or party or by the party applying for the adjournment of costs, in such amount as the court shall fix, to the Clerk of the Court made payable to "Treasurer, State of New Jersey," or to the adverse party; (b) the payment by the delinquent attorney or party or the party applying for the adjournment of the reasonable expenses, including attorney's fees, to the aggrieved party; (c) the dismissal of the complaint, cross-claim, counterclaim or motion, or the striking of the answer and the entry of judgment by default, or the granting of the motion; or (d) such other action as it deems appropriate.

(b) Motions; Briefs. ... no change

Note: Source - R.R. 1:8-5, 4:5-5(b) (second sentence), 4:5-10(e), 4:6-3(b), 4:29-1(c), 4:41-6. Amended June 20, 1979 to be effective July 1, 1979; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (a) amended July 17, 2018 to be effective September 1, 2018.

7:8-9. Non-Monetary Procedures on Failure to Appear

(a) Warrant or Notice. ... no change

(b) Driving Privileges; Report to Motor Vehicle Commission. ... no change

(c) Unexecuted Bench Warrant. ... no change

(d) Parking Cases; Unserved Notice. ... no change

(e) Reopening. ... no change

(f) Dismissal of Parking Tickets. ... no change

(g) Monetary Sanctions for Failure to Appear. Monetary sanctions on defendants for

failure to appear are addressed in R. 7:8-9A.

Note: Source – Paragraphs (a), (b), (c), (d), (e): R. (1969) 7:6-3; paragraph (f): new. Adopted October 6, 1997 to be effective February 1, 1998; paragraph (a) text deleted, and new paragraphs (a)(1) and (a)(2) adopted July 28, 2004 to be effective September 1, 2004; paragraph (b) caption amended, paragraphs (b)(1), (c), (d) and (f) amended July 16, 2009 to be effective September 1, 2009; paragraphs (a)(1), (a) (2), (b)(1), (b)(2) amended, paragraph (c) caption and text amended, and paragraphs (d) and (f) amended August 30, 2016 to be effective January 1, 2017; caption amended and new paragraph (g) adopted July 17, 2018 to be effective September 1, 2018.

7:8-9A. Monetary Sanctions for Defendant's Failure to Appear

(a) In General. If without just cause or excuse, a defendant who is required to appear at a trial, hearing or other scheduled municipal court proceeding fails to appear, the municipal court judge may order that defendant to pay a monetary sanction based on the following factors: (1) defendant's history of failure to appear; (2) defendant's criminal and offense history; (3) the seriousness of the offense; and (4) the resulting inconvenience to the defendant's adversary and to witnesses called by the parties. The judge shall state the reasons for the sanction on the record.

(b) Maximum Sanction. For consequence of magnitude cases, the aggregate sanction per case shall not exceed \$100. For other than consequence of magnitude cases, the aggregate sanction per case shall not exceed \$25 for parking offenses and \$50 for all other matters.

(c) Contempt of Court. A judge may impose a higher sanction on a defendant for failure to appear only in accordance with the provisions of R. 1:10.

(d) Calculation of Sanction. When a case includes multiple offenses, the maximum sanction shall be calculated solely on the most serious offense charged. Only one sanction may be imposed per case.

(e) Payment of Sanction. The defendant shall pay the assessed sanction to the municipal court to be disbursed to the municipality where the offense occurred.

(f) Non-Monetary Procedures on Failure to Appear. Non-monetary procedures on failure to appear are addressed in R. 7:8-9.

Note: Adopted July 17, 2018 to be effective September 1, 2018.

7:9-5. Failure to Pay.

If without just cause or excuse, a defendant defaults on payment of a municipal court imposed financial obligation, the judge, on the record, may order the defendant to pay an aggregate monetary sanction for each order setting forth time payments not to exceed \$50. The defendant shall pay the assessed sanction to the municipal court to be disbursed to the municipality where the offense occurred. This sanction shall be in addition to any other penalty imposed by statute or rule for failure to pay. A defendant's inability to pay constitutes just cause for purposes of this rule.

Note: Adopted July 17, 2018 to be effective September 1, 2018.