



2014 REPORT  
OF THE SUPREME COURT COMMITTEE  
ON SPECIAL CIVIL PART PRACTICE

JANUARY 2, 2014

# TABLE OF CONTENTS

<b>I.</b>	<b>RULE AMENDMENTS RECOMMENDED FOR ADOPTION .....</b>	<b>1</b>
A.	Proposed Amendment to <i>R. 4:42-11(a)(ii)</i> – Post Judgment Interest Rate.....	1
B.	Proposed Amendment to <i>Rules 6:3-2(c)</i> and <i>6:6-3(a)</i> – Display of Social Security Number in Complaint and Affidavit of Proof .....	6
C.	Proposed Amendment to <i>R. 6:4-6(c)</i> – Dismissal or Suppression With Prejudice; Time Period .....	11
D.	Proposed Amendment to <i>R. 6:6-6(b)</i> - Tolling by Order for Orderly Removal of 30 Day Time to Request or Execute Warrant of Removal .....	13
E.	Proposed Amendments to Appendix XI-H (Execution Against Goods and Chattels) and Appendix J (Wage Execution).....	15
F.	Proposed Amendments to Appendices XI-I and XI-J – Notice of Application for Wage Execution Form and Wage Execution Form .....	16
G.	Proposed Amendment to Appendix XI-L – Information Subpoena and Written Questions .....	20
<b>II.</b>	<b>RULE AMENDMENTS CONSIDERED AND REJECTED .....</b>	<b>29</b>
A.	Proposed Amendment to <i>R. 6:1-3(b)</i> – Complaints Filed in Wrong Venue.....	29
B.	Proposed Amendment to <i>R. 6:6-1</i> – Motions For Summary Judgment.....	30
C.	Proposed Amendment to <i>R. 6:6-5</i> – Marking Case Jacket in Landlord-Tenant Actions .....	31
D.	Proposed Amendment to <i>R. 6: 6-6(b)</i> - Good Cause to Issue Order for Orderly Removal.....	32
E.	Proposed Amendment to <i>R. 6:7-1(d)</i> – Mode of Serving Warrant for Removal .....	33
<b>III.</b>	<b>OTHER RECOMMENDATIONS .....</b>	<b>34</b>
A.	Captions for Assigned Judgments .....	34

## TABLE OF CONTENTS

<b>IV. LEGISLATION – NONE.....</b>	<b>35</b>
<b>V. MATTERS HELD FOR CONSIDERATION .....</b>	<b>36</b>
A. Possible Amendments to <i>R. 1:38-3</i> or <i>1:38-11</i> – Shielding Court Information About Tenants Who Prevail in Litigation With Their Landlords.....	36
B. Retention of Court Records in Landlord-Tenant Actions .....	37
C. Adequacy of Proofs for Entry of Judgment By Default (Held Over From 2010 -2012 Rules Cycle) .....	38
D. Proposed Amendment to <i>R. 6:6-6(b)</i> – Prohibiting Requirement that Tenant Waive Rights As Condition for Entry of an Order for Orderly Removal in Tenancy Actions .....	39
<b>VI. CONCLUSION .....</b>	<b>40</b>

## **I. RULE AMENDMENTS RECOMMENDED FOR ADOPTION**

### **A. Proposed Amendment to R. 4:42-11(a)(ii) – Post Judgment Interest Rate**

Post judgment interest in New Jersey is governed by R. 4:42-11. The mechanism set forth in subparagraph (a)(ii) of the rule bases the post-judgment interest rate on the rate of return earned by the New Jersey Cash Management Fund for the previous fiscal year, rounded to the nearest half or whole percent. Since that return was only 0.15% for fiscal 2012, the post-judgment interest rate for calendar 2013 was initially set at 0%. A Joint Subcommittee of the Supreme Court Committees on Civil and Special Civil Part Practice was created in October of 2012 at the request of the Hon. Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts, to discuss the question of whether some action should be recommended to the Supreme Court to address the 0% annual base interest rate on judgments that was to take effect on January 1, 2013.

The Joint Subcommittee concluded, in a report dated November 14, 2012, that the current method for determining the rate may not produce a result (0%) that is commercially reasonable in an economic environment of extremely low interest rates on certificates of deposit, money market accounts and other investments utilized by the Cash Management Fund and thus began to discuss possible alternatives. The complexity of the alternatives led the Subcommittee to recommend, as an interim solution, the adoption of an Order by the Supreme Court that would retain the Cash Management Fund as the index for setting the post judgment interest rate, with the proviso that the rate thus calculated should not fall below 1% per annum. The Subcommittee's Report also recommended retention of the current provision in subparagraph (iii) of the rule that adds 2% to the base rate on judgments that exceed the monetary limit of the Special Civil Part, currently set by court rule at \$15,000. These proposals were endorsed by the

Civil and Special Civil Part Practice Committees. The Supreme Court decided, however, as an interim measure pending further recommendations by the two rules committees, to issue an Order, retroactive to January 1, 2013, that retains the return of the N.J. Cash Management Fund as the index for the post judgment interest rate, but relaxes and supplements R. 4:42-11(a)(ii) to include a provision that the rate will not go below 0.25% per annum. The Court concurred with the recommendation of the Civil and Special Civil Part Practice Committees for retention of the current provision in subparagraph (iii) of the rule that adds 2% to the base rate on judgments that exceed the monetary limit of the Special Civil Part. The interest rate for those judgments is thus 2.25% per annum.

The Joint Subcommittee on Post Judgment Interest reconvened in September, 2013, to consider what steps should be taken next. In its search for an alternative index for setting the post judgment interest rate, the Joint Subcommittee looked at the rates used in other states and the mechanism used by the federal courts for this purpose. The Subcommittee also considered the historical reasons, set forth in the 1985 and 1996 Reports of the Civil Practice Committee to the Supreme Court, behind the choice of the return of the N.J. Cash Management Fund as the index for determining the rate in New Jersey. The Subcommittee explained in its October 31, 2013 Report that these factors led to the conclusion that the return of the New Jersey Cash Management Fund should be retained as the index for the post judgment interest rate, but the rule should be amended to set a floor of 0.25% as the minimum interest rate on judgments. The Subcommittee also recommended retention of the provision that an additional 2% be added to judgments that exceed the \$15,000 monetary limit of the Special Civil Part. The Subcommittee's October 31 Report is attached as Appendix A to this Report. A minority report, submitted by the N.J. Creditors Bar Association is attached as Appendix B. The Subcommittee's Report was

approved by large majorities of both the Civil and Special Civil Part Practice Committees at a joint meeting held on December 18, 2013. The proposed amendment to R. 4:42-11(a)(ii) follows.

4:42-11. Interest; Rate on Judgments; in Tort Actions

(a) Post Judgment Interest. Except as otherwise ordered by the court or provided by law, judgments, awards and orders for the payment of money, taxed costs and attorney's fees shall bear simple interest as follows:

(i) For periods prior to January 2, 1986, the annual rate of return shall be as heretofore provided by this rule, namely, 6% for the period prior to April 1, 1975; 8% for the period between April 1, 1975 and September 13, 1981; and 12% for the period between September 14, 1981 and January 1, 1986.

(ii) For judgments not exceeding the monetary limit of the Special Civil Part at the time of entry, regardless of the court in which the action was filed: commencing January 2, 1986 and for each calendar year thereafter, the annual rate of interest shall equal the average rate of return, to the nearest whole or one-half percent, for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment in the Department of the Treasury, but the rate shall be not less than 0.25%.

(iii) For judgments exceeding the monetary limit of the Special Civil Part at the time of entry: in the manner provided for in subparagraph (a)(ii) of this Rule until September 1, 1996; thereafter, at the rate provided in subparagraph (a)(ii) plus 2% per annum.

Post-judgment interest may be included in the calculation of an attorney's contingency fee.

(b) Tort Actions. ... no change.

Note: Adopted December 21, 1971 to be effective January 31, 1972. Paragraph (b) amended June 29, 1973 to be effective September 10, 1973; paragraphs (a) and (b) amended November 27, 1974 to be effective April 1, 1975; paragraphs (a) and (b) amended July 29, 1977 to be effective September 6, 1977; paragraphs (a) and (b) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a)(ii) amended and paragraph (a)(iii) added June 28, 1996 to be effective September 1, 1996; paragraph (b) amended April 28, 2003 to be effective July 1, 2003; paragraph (a) amended July 23, 2010 to be effective September 1, 2010; paragraph (a)(ii) amended \_\_\_\_\_, 2014 to be effective September 1, 2014.

**B. Proposed Amendment to Rules 6:3-2(c) and 6:6-3(a) – Display of Social Security Number in Complaint and Affidavit of Proof**

The Committee considered a proposal by one of its members to recommend amending Rules 6:3-2(c) and 6:6-3(a). Those rules require the plaintiff, in cases involving assigned claims, to include the last four digits of the defendant's Social Security Number (SSN) in the complaint and the affidavit of proof submitted to support the entry of judgment by default. The amendments would change the requirement from the last four digits to the last three digits because N.J.S.A. 56:8-164 generally prohibits the display by public or private entities of any four consecutive digits of an individual's Social Security Number. While subsection e. appears to exempt the Court Rules from the statute's coverage, the Committee nevertheless recommends amending the two rules in question because the appearance of the last three digits in the complaint and affidavit of proof is sufficient to achieve the rules' purpose of connecting the defendant with the claim that is the basis of the assignee's suit. Reducing the number of digits displayed from four to three will greatly reduce the chance that the full SSN can be ascertained with the use of a sophisticated computer program. The proposed amendments follow.

6:3-2. Endorsement of Papers: Complaint; Summons

(a) ... no change.

(b) ... no change.

(c) Pleading Requirements in Actions on Assigned Claims. The complaint in actions to collect assigned claims shall set forth with specificity the name of the original creditor, the last four digits of the original account number of the debt, the last three [four] digits of the defendant-debtor's Social Security Number (if known), the current owner of the debt, and the full chain of the assignment of the claim, if the action is not filed by the original creditor.

Note: Source — R.R. 7:5-2(a) (third sentence) (b). Caption and text amended July 10, 1998, to be effective September 1, 1998; text designated as paragraph (a), caption added to paragraph (a), and new paragraphs (b) and (c) adopted July 19, 2012 to be effective September 4, 2012; paragraph (c) amended \_\_\_\_\_, 2014 to be effective September 1, 2014.

6:6-3. Judgment By Default

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

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

In any action to collect an assigned claim, plaintiff/creditor shall submit a separate affidavit certifying with specificity the name of the original creditor, the last four digits of the original account number of the debt, the last three [four] digits of the defendant-debtor's Social Security Number (if known), the current owner of the debt and the full chain of the assignment of the claim, if the action is not filed by the original creditor.

If plaintiff's records are maintained electronically and the claim is founded on an open-end credit plan, as defined in 15 U.S.C. §1602(i) and 12 C.F.R. §226.2(a)(20), a copy of the periodic statement for the last billing cycle, as prescribed by 15 U.S.C. §1637(b) and 12 C.F.R. §226.7, or a computer-generated report setting forth the previous balance, identification of transactions and credits, if any, periodic rates, balance on which the finance charge is computed, the amount of the finance charge, the annual percentage rate, other charges, if any, the closing date of the billing cycle, and the new balance, if attached to the affidavit, shall be sufficient to support the entry of judgment.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

Note: Source — R.R. 7:9-2(a) (b), 7:9-4. Paragraphs (a) and (d) amended June 29, 1973 to be effective September 10, 1973; paragraph (c) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (c) amended June 29, 1990 to be effective September 4, 1990; paragraphs (a), (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraphs (a), (b), and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended July 18, 2001 to be effective November 1, 2001; paragraphs (a), (b), and (c) amended, and new paragraph (e) added July 12, 2002 to be effective September 3, 2002; paragraphs (a) and (d) amended July 28, 2004 to be effective September 1, 2004; paragraph (b) amended July 27, 2006 to be effective September 1, 2006; paragraph (d) amended July 9, 2008 to be effective September 1, 2008; paragraph (a) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended  
, 2014 to be effective September 1, 2014.

**C. Proposed Amendment to R. 6:4-6(c) – Dismissal or Suppression With Prejudice; Time Period**

The Committee considered a letter from an attorney pointing out an apparent discrepancy between Rules 4:23-5(a)(2) and 6:4-6(c). The Part IV rule requires a 60 day waiting period, following entry of an order of dismissal without prejudice, before filing a motion to dismiss with prejudice, but the Part VI rule states that the time set forth in the Part IV rule shall be reduced from 90 days to 60 in Special Civil Part actions. The time period set forth in R. 4:23-5(a)(2) was reduced in 2008 from 90 days to 60 days on the recommendation of the Civil Practice Committee, but there has been no corresponding amendment to R. 6:4-6(c). The Committee agrees with the practitioner that the rule should be amended. The proposed amendment follows.

6:4-6. Sanctions

The provisions of R. 4:23 (sanctions for failure to make discovery) shall apply to actions in the Special Civil Part, except that:

(a) ... no change.

(b) ... no change.

(c) Dismissal or Suppression With Prejudice; Time Period. The [90] 60-day period prescribed by R. 4:23-5(a)(2) is reduced to [60] 45 days.

(d) ... no change.

(e) ... no change.

(f) ... no change.

Note: Adopted July 29, 1977 to be effective September 6, 1977; amended November 7, 1988 to be effective January 2, 1989; former text amended and new paragraphs (a) through (f) adopted July 28, 2004 to be effective September 1, 2004; paragraph (c) amended \_\_\_\_\_, 2014 to be effective September 1, 2014.

**D. Proposed Amendment to R. 6:6-6(b) - Tolling by Order for Orderly Removal of 30-Day Time to Request or Execute Warrant of Removal**

A member of the Committee proposed that R. 6:6-6(b), which permits the issuance of an order for orderly removal following entry of a judgment for possession in a tenancy proceeding, be amended to specifically provide for the tolling of the 30 day time periods set forth in R. 6:7-1(d) for applying for or executing a warrant of removal when an Orderly Removal Order has been granted. For example, a landlord has 30 days to have the warrant executed from the date of issuance, yet an Orderly Removal gives a tenant 7 days of additional possession. In the Committee's view, the landlord should not be prejudiced by having those 7 days included in the 30-day time period. Any court order that delays issuance/execution of a warrant should toll the counting of these time periods. The proposed amendment follows.

6:6-6 Post-Judgment Levy Exemption Claims and Applications for Relief in Tenancy Actions

(a) Generally. Rules 4:52-1 and 4:52-2 shall apply to post-judgment applications for relief in tenancy actions and to claims of exemption from levy in other actions in the Special Civil Part, except that the filing of briefs shall not be required.

(b) Orders for Orderly Removal. An order for post-judgment relief, applied for on notice to a landlord pursuant to paragraph (a) of this rule, need not have a return date if the sole relief is a stay of execution of a warrant of removal for seven calendar days or less, but it shall provide that the landlord may move for the dissolution or modification of the stay on two days' notice to the tenant or such other notice as the court sets in the order. The 30-day time periods for requesting or executing a warrant of removal, set forth in R. 6:7-1(d), are tolled for the duration of any order for orderly removal or any other court initiated stay.

(c) Orders to Release Levies on Exempt Funds. An order to release a levy on funds because they are exempt from execution, levy or attachment under New Jersey or federal law shall require the third-party garnishee to refund to the judgment-debtor all fees incurred as a result of the levy. However, if the court determines that the judgment-creditor at whose instance the levy was made knew or should have known that the funds were exempt from execution, levy or attachment, the order can require that party to reimburse the judgment-debtor for such fees.

(d) Forms. Forms for applications for post-judgment relief in tenancy actions and claims of exemption from levy in other actions shall be available to litigants in the clerk's office.

Note: Adopted July 12, 2002 to be effective September 3, 2002; caption and paragraphs (a), (b), and (c) amended July 27, 2006 to be effective September 1, 2006; former paragraph (c) redesignated as paragraph (d) and new paragraph (c) adopted July 19, 2012 to be effective September 4, 2012; paragraph (b) amended \_\_\_\_\_, 2014 to be effective September 1, 2014.

**E. Proposed Amendments to Appendix XI-H (Execution Against Goods and Chattels) and Appendix J (Wage Execution)**

By Order dated November 6, 2013, the Supreme Court amended the chattel and wage execution forms set forth in Appendices XI-H and XI-J to the Rules of Court, effective November 25, 2013. These forms are generated by the Judiciary's Automated Case Management System (ACMS). Up to November 25 the system combined the interest and costs that accrued subsequent to the issuance of a chattel or wage execution in a category labeled "subsequent costs." Although the total amounts due on the executions were accurate, the aggregation of post-execution interest and costs had been a source of confusion for attorneys and their clients. Updates to the AOC's mainframe computer system enabled the correction of this historical anomaly. In addition to the proper allocation of subsequent interest and costs, the revised execution forms now show the addition of the interest and costs chronologically. This provides more clarity to attorneys and their clients and to the judgment debtors who are the targets of the executions. The proposed amendments were reviewed and endorsed by this Committee prior to the Court's action. Since the revised chattel and wage executions have already been approved by the Supreme Court, they are set forth for informational purposes as Appendix C to this report.

**F. Proposed Amendments to Appendices XI-I and XI-J – Notice of Application for Wage Execution Form and Wage Execution Form**

Apart from the changes to the form for wage executions described in the preceding section of this Report, the Committee subsequently discussed and approved a proposal by one of its members to amend both the form for the Notice of Application for Wage Execution and the form for the Wage Execution itself set forth in Appendices XI-I and XI-J, respectively. The member pointed out that both forms contain detailed descriptions of the calculations for determining how much money can be withheld from the wages of a debtor to satisfy a judgment and the right of the debtor to object at any time to the execution or seek a reduction in the amount withheld, but neither form mentions the statutory provision, set forth in N.J.S.A. 2A:17-52, that prohibits more than one execution on wages at a time. The Committee was informed anecdotally that income withholding pursuant to two or more executions happens frequently because neither debtors nor employers are aware of the prohibition. The Committee believes that this can be prevented by including a reference to the prohibition in the two forms. The proposed amendments to Appendices XI-I and XI-J follow.

APPENDIX XI-I. NOTICE OF APPLICATION FOR WAGE EXECUTION

Attorney(s): \_\_\_\_\_  
Office Address & Tel. No. \_\_\_\_\_  
Attorney for \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)

v.

\_\_\_\_\_  
Defendant(s)

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, SPECIAL CIVIL PART  
\_\_\_\_\_ COUNTY  
Docket No. \_\_\_\_\_

CIVIL ACTION

NOTICE OF APPLICATION  
FOR WAGE EXECUTION

To:

Name of Judgment-Debtor

\_\_\_\_\_  
\_\_\_\_\_  
Address

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

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

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

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

CERTIFICATION OF SERVICE

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

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Attorney for Judgment-Creditor  
or Judgment-Creditor Pro Se

[Adopted July 13, 1994, effective September 1, 1994; amended September 27, 1996, effective October 1, 1996; amended July 30, 1997, effective September 1, 1997; amended July 28, 2004, to be effective September 1, 2004; amended July 3, 2007, to be effective July 24, 2007; amended July 2, 2008, to be effective July 24, 2008; amended July 9, 2009 to be effective July 24, 2009; amended November 6, 2013 to be effective November 25, 2013; amended \_\_\_\_\_, 2014 to be effective \_\_\_\_\_, 2014.]

**APPENDIX XI-J. WAGE EXECUTION**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, SPECIAL CIVIL PART  
\_\_\_\_\_ County Tel. \_\_\_\_\_

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

Docket No.: \_\_\_\_\_

Judgment No.: \_\_\_\_\_  
Writ Number : \_\_\_ Issued \_\_\_\_\_

Name and Address of Employer Ordered to Make Deductions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff

vs.

Designated Defendant  
(Address)

Unless the designated defendant is currently subject to withholding under another wage execution, [T] the employer is ordered to deduct from the earnings which the designated defendant receives and to pay over to the court officer named below, the lesser of the following: (a) 10% of the gross weekly pay; or (b) 25% of disposable earnings for that week; or (c) the amount, if any, by which the designated defendant's disposable weekly earnings exceed \$217.50 per week, until the total amount due has been deducted or the complete termination of employment. Upon either of these events, an immediate accounting is to be made to the court officer. Disposable earnings are defined as that portion of the earnings remaining after the deduction from gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are \$217.50 or less, no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld and only one execution against the wages of the designated defendant shall be satisfied at a time.

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

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

Date \_\_\_\_\_

\_\_\_\_\_  
Judge

Jane B. Doe  
Clerk of the Special Civil Part

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

\_\_\_\_\_  
Court Officer

Plaintiff's Attorney and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I RETURN this execution to the Court  
( ) Unsatisfied ( ) Satisfied ( ) Partly Satisfied  
Amount Collected .....\$ \_\_\_\_\_  
Fee Deducted .....\$ \_\_\_\_\_  
Amount Due to Atty .....\$ \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Court Officer

## HOW TO CALCULATE PROPER GARNISHMENT AMOUNT

- (1) Gross Salary per pay period ..... \_\_\_\_\_
- (2) Less:  
 Amounts Required by Law to be Withheld:
- (a) U.S. Income Tax ..... \_\_\_\_\_
- (b) FICA (social security) ..... \_\_\_\_\_
- (c) State Income Tax, ETT, etc..... \_\_\_\_\_
- (d) N.J. SUI ..... \_\_\_\_\_
- (e) Other State or Municipal Withholding..... \_\_\_\_\_
- (f) TOTAL ..... - \_\_\_\_\_
- (3) Equals "disposable earnings" ..... = \_\_\_\_\_
- (4) If salary is paid:  
 -- weekly, then subtract \$217.50  
 -- every two weeks, then subtract \$435.00  
 -- twice per month, then subtract \$471.25  
 -- monthly, then subtract \$942.50  
 (Federal law prohibits any garnishment when "disposable earnings" are smaller than the amount on line 4) ..... - \_\_\_\_\_
- (5) Equals the amount potentially subject to garnishment (if less than zero, enter zero) ..... = \_\_\_\_\_
- (6) Take "disposable earnings" (Line 3) and multiply by .25:  
 \$ \_\_\_\_\_ x .25 = \$ \_\_\_\_\_ .....
- (7) Take the gross salary (Line 1) and multiply by .10:  
 \$ \_\_\_\_\_ x .10 = \$ \_\_\_\_\_ .....
- (8) Compare lines 5, 6, and 7--the amount which may lawfully be deducted is the smallest amount on line 5, line 6, or line 7, i.e.,  
 ..... \_\_\_\_\_

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

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

**G. Proposed Amendment to Appendix XI-L – Information Subpoena and Written Questions**

The information subpoena and questions set forth in Appendix XI-L to the Rules is designed to elicit information from a judgment debtor about income and assets that might be available to satisfy a judgment. The Committee received correspondence from an attorney suggesting that the questions should be updated to include information regarding limited liability companies, as well as sole proprietorships, corporations and partnerships. The Committee agrees and thus proposes appropriate changes to question # 16, of the questions for individuals, and the insertion of a new question #6 in the questions for business entities. The latter will require renumbering the current questions #6 through #18 as #7 through #19, respectively. The proposed amendments follow.

**APPENDIX XI-L. INFORMATION SUBPOENA AND WRITTEN QUESTIONS**

IMPORTANT NOTICE--PLEASE READ CAREFULLY

FAILURE TO COMPLY WITH THIS INFORMATION  
SUBPOENA MAY RESULT IN YOUR ARREST AND  
INCARCERATION

NAME: SUPERIOR COURT OF NEW JERSEY  
ADDRESS: LAW DIVISION: SPECIAL CIVIL PART  
\_\_\_\_\_ COUNTY  
TELEPHONE NO.: DOCKET NO.  
Attorneys for:

Plaintiff

CIVIL ACTION  
INFORMATION SUBPOENA

-vs-

Defendant

THE STATE OF NEW JERSEY, to: \_\_\_\_\_

Judgment has been entered against you in the Superior Court of New Jersey, Law Division, Special Civil Part, \_\_\_\_\_ County, on \_\_\_\_\_, 20\_\_, in the amount of \$\_\_\_\_\_ plus costs, of which \$\_\_\_\_\_ together with interest from \_\_\_\_\_, 20\_\_, remains due and unpaid.

Attached to this Information Subpoena is a list of questions that court rules require you to answer within 14 days from the date you receive this subpoena. If you do not answer the attached questions within the time required, the opposing party may ask the court to conduct a hearing in order to determine if you should be held in contempt. You will be compelled to appear at the hearing and explain your reasons for your failure to answer.

If this judgment has resulted from a default, you may have the right to have this default judgment vacated by making an appropriate motion to the court. Contact an attorney or the clerk of the court for information on making such a motion. Even if you dispute the judgment you must answer all of the attached questions.

You must answer each question giving complete answers, attaching additional pages if necessary. False or misleading answers may subject you to punishment by the court. However, you need not provide information concerning the income and assets of others living in your household unless you have a financial interest in the assets or income. Be sure to sign and date your answers and return them to the address in the upper left hand corner within 14 days.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Attorney for

\_\_\_\_\_  
Clerk

QUESTIONS FOR INDIVIDUALS

- 1. Full name \_\_\_\_\_
- 2. Address \_\_\_\_\_
- 3. Birthdate \_\_\_\_\_
- 4. Social Security # \_\_\_\_\_
- 5. Driver's license # and expiration date \_\_\_\_\_  
\_\_\_\_\_
- 6. Telephone # \_\_\_\_\_
- 7. Full name and address of your employer \_\_\_\_\_  
\_\_\_\_\_  
(a) Your weekly salary: Gross \_\_\_\_\_ Net \_\_\_\_\_  
(b) If not presently employed, name and address of last employer. \_\_\_\_\_  
\_\_\_\_\_
- 8. Is there currently a wage execution on your salary?  
Yes \_\_\_ No \_\_\_
- 9. List the names, addresses and account numbers of all bank accounts on which your name appears.
- 10. If you receive money from any of the following sources, list the amount, how often, and the name and address of the source:

<u>Type</u>	<u>Amount &amp; Frequency</u>	<u>Name &amp; Address of Sources</u>
Alimony		
Loan Payments		
Rental Income		
Pensions		
Bank Interest		
Stock Dividends		
<u>Other</u>		

11. Do you receive any of the following, which are exempt from levy? Any levy on disclosed exempt funds may result in monetary penalties including reimbursement of the debtor's out-of-pocket expenses.

- |                                |         |                        |        |
|--------------------------------|---------|------------------------|--------|
| Social Security benefits_      | Yes ___ | Amount per month_____  | No ___ |
| S.S.I. benefits                | Yes ___ | Amount per month_____  | No ___ |
| Welfare benefits               | Yes ___ | Amount per month_____  | No ___ |
| V.A. benefits                  | Yes ___ | Amount per month _____ | No ___ |
| Unemployment benefits          | Yes ___ | Amount per month_____  | No ___ |
| Workers' compensation benefits | Yes ___ | Amount per month_____  | No ___ |
| Child support payments         | Yes ___ | Amount per month_____  | No ___ |

Attach copies of the three most recent bank statements for each account listed in Question 9 that contains funds from these sources.

12. Do you own the property where you reside?

Yes \_\_\_ No \_\_\_ If yes, state the following:

- (a) Name of the owner or owners \_\_\_\_\_
- (b) Date property was purchased \_\_\_\_\_
- (c) Purchase price \_\_\_\_\_
- (d) Name and address of mortgage holder \_\_\_\_\_
- (e) Balance due on mortgage \_\_\_\_\_

13. Do you own any other real estate?

Yes \_\_\_ No \_\_\_ If yes, state the following for each property:

- (a) Address of property \_\_\_\_\_
- (b) Date property was purchased \_\_\_\_\_
- (c) Purchase price \_\_\_\_\_
- (d) Name and address of all owners \_\_\_\_\_
- (e) Name and address of mortgage holder \_\_\_\_\_
- (f) Balance due on mortgage \_\_\_\_\_
- (g) Names and address of all tenants and monthly rental paid by each tenant \_\_\_\_\_

14. Does the present value of your personal property, which includes automobiles, furniture, appliances, stocks, bonds, and cash on hand, exceed \$1,000?

Yes \_\_\_ No \_\_\_ If the answer is "yes," you must itemize all personal property owned by you.

Cash on hand: \$\_\_\_\_\_

Other personal property: (Set forth make, model and serial number. If financed, give name and address of party to whom payments are made).

<u>Item</u>	<u>Date Purchased</u>	<u>Purchase Price</u>	<u>If Financed Balance Still Due</u>	<u>Present Value</u>
-------------	-----------------------	-----------------------	--	--------------------------

15. Do you own a motor vehicle?

Yes \_\_\_ No \_\_\_ If yes, state the following for each vehicle owned:

- (a) Make, model and year of motor vehicle \_\_\_\_\_  
\_\_\_\_\_
- (b) If there is a lien on the vehicle, state the name and address of the lienholder and the amount due to the lienholder \_\_\_\_\_  
\_\_\_\_\_
- (c) License plate # \_\_\_\_\_  
\_\_\_\_\_
- (d) Vehicle identification # \_\_\_\_\_  
\_\_\_\_\_

16. Do you have an ownership interest in a business Yes \_\_\_ No \_\_\_

If yes, state the following with respect to each business:

- (a) Name and address of the business \_\_\_\_\_  
\_\_\_\_\_
- (b) Is the business a corporation \_\_\_\_\_, sole proprietorship \_\_\_\_\_, partnership \_\_\_\_\_ or limited liability company \_\_\_\_\_?
- (c) The name and address of all stockholders, officers, partners or members  
\_\_\_\_\_  
\_\_\_\_\_
- (d) The amount of income received by you from the business during the last twelve months \_\_\_\_\_  
\_\_\_\_\_

17. Set forth all other judgments that you are aware of that have been entered against you and include:

<u>Creditor's Name</u>	<u>Creditor's Attorney</u>	<u>Amount Due</u>	<u>Name of Court</u>	<u>Docket #</u>
----------------------------	--------------------------------	-----------------------	--------------------------	-----------------

I hereby 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: \_\_\_\_\_

### QUESTIONS FOR BUSINESS ENTITY

1. Name of business including all trade names. \_\_\_\_\_  
\_\_\_\_\_

2. Addresses of all business locations. \_\_\_\_\_  
\_\_\_\_\_

3. If the judgment-debtor is a corporation, the names and addresses of all stockholders, officers and directors.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. If a partnership, list the names and addresses of all partners.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. If a limited partnership, list the names and addresses of all general partners.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If the judgment-debtor is a limited liability company, the names and addresses of all members.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Set forth in detail the name, address and telephone number of all businesses in which the principals of the judgment-debtor now have an

interest and set forth the nature of the interest.

---

8. For all bank accounts of the judgment-debtor business entity, list the name of the bank, the bank's address, the account number and the name in which the account is held.

---

---

9. Specifically state the present location of all books and records of the business, including checkbooks. \_\_\_\_\_

---

10. State the name and address of the person, persons, or entities who prepare, maintain and/or control the business records and checkbooks.

---

---

11. List all physical assets of the business and their location. If any asset is subject to a lien, state the name and address of the lienholder and the amount due on the lien.

---

---

---

12. Does the business own any real estate? Yes \_\_\_ No \_\_\_

If yes, state the following for each property:

(a) Name(s) in which property is owned \_\_\_\_\_

(b) Address of property \_\_\_\_\_

(c) Date property was purchased \_\_\_\_\_

(d) Purchase price \_\_\_\_\_

(e) Name and address of mortgage holder \_\_\_\_\_

---

(f) Balance due on mortgage \_\_\_\_\_

(g) The names and addresses of all tenants and monthly rentals paid by each tenant.

NAME AND ADDRESS OF TENANT

MONTHLY RENTAL

13. List all motor vehicles owned by the business, stating the following for each vehicle:

(a) Make, model and year \_\_\_\_\_

---

(b) License plate number \_\_\_\_\_

(c) Vehicle identification number \_\_\_\_\_

(d) If there is a lien on the vehicle, the name and address of the lienholder and the amount due on the lien

---

---

14. List all accounts receivable due to the business, stating the name, address and amount due on each receivable.

NAME AND ADDRESS AMOUNT DUE

15. For any transfer of business assets that has occurred within six months from the date of this subpoena, specifically identify:

- (a) The nature of the asset \_\_\_\_\_  
\_\_\_\_\_
- (b) The date of transfer \_\_\_\_\_
- (c) Name and address of the person to whom the asset was transferred \_\_\_\_\_  
\_\_\_\_\_
- (d) The consideration paid for the asset and the form in which it was paid (check, cash, etc.) \_\_\_\_\_  
\_\_\_\_\_
- (e) Explain in detail what happened to the consideration paid for the asset \_\_\_\_\_  
\_\_\_\_\_

16. If the business is alleged to be no longer active, set forth:

- (a) The date of cessation \_\_\_\_\_
- (b) All assets as of the date of cessation \_\_\_\_\_  
\_\_\_\_\_
- (c) The present location of those assets \_\_\_\_\_  
\_\_\_\_\_
- (d) If the assets were sold or transferred, set forth:
  - (1) The nature of the assets \_\_\_\_\_  
\_\_\_\_\_
  - (2) Date of transfer \_\_\_\_\_
  - (3) Name and address of the person to whom the assets were transferred \_\_\_\_\_  
\_\_\_\_\_
  - (4) The consideration paid for the assets and the form in which it was paid \_\_\_\_\_  
\_\_\_\_\_
  - (5) Explain in detail what happened to the consideration paid for the assets \_\_\_\_\_  
\_\_\_\_\_

17. Set forth all other judgments that you are aware of that have been entered against the business and include the following:

Creditor's Name	Creditor's Attorney	Amount Due	Name of Court	Docket Number
-----------------	---------------------	------------	---------------	---------------

18. For all litigation in which the business is presently involved, state:

(a) Date litigation commenced \_\_\_\_\_

(b) Name of party who started the litigation \_\_\_\_\_

(c) Nature of the action \_\_\_\_\_

(d) Names of all parties and the names, addresses and telephone numbers of their attorneys \_\_\_\_\_

(e) Trial date \_\_\_\_\_

(f) Status of case \_\_\_\_\_

(g) Name of the court and docket number \_\_\_\_\_

19. State the name, address and position of the person answering these questions. \_\_\_\_\_

I hereby 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: \_\_\_\_\_

[Former Appendix XI-K adopted June 29, 1990, effective September 4, 1990; amended July 14, 1992, effective September 1, 1992; redesignated as Appendix XI-L and amended July 13, 1994, effective September 1, 1994; amended July 28, 2004 to be effective September 1, 2004; amended \_\_\_\_\_, 2014 to be effective September 1, 2014.]

## II. RULE AMENDMENTS CONSIDERED AND REJECTED

### A. Proposed Amendment to R. 6:1-3(b) – Complaints Filed in Wrong Venue

Rule 6:1-3(b) permits the clerk to return an improperly venued complaint to the plaintiff when the error is discovered prior to its acceptance for filing and processing. The rule further provides that if the error is discovered after filing but before the complaint has been served, the clerk is to forward it to the appropriate county and so advise the parties. If the complaint has been served before the error is discovered, however, the only remedy is a transfer pursuant to court order upon motion by one of the parties. A member of the Committee proposed to amend the rule so as to allow the clerk to transfer the case even after the complaint has been served. This would eliminate the need for the court to rule on motions seeking that relief. The matter was tabled for referral to the Special Civil Part Management Committee, which is composed of the Assistant Civil Division Managers responsible for managing the Special Civil Part, for their views.

The Management Committee noted that currently changes of venue in this context are normally unopposed. The Management Committee expressed the view, however, that if a case is to be transferred following service it should be done by court order, not administratively by the Clerk. While the mechanism for correcting the error is simple in most cases, occasionally a more difficult or contested issue is presented in the moving papers, such as a claim of forum *non conveniens*, and it is not uncommon for clerks in these situations to have differences of opinion as to the proper venue for a specific case, each interpreting and applying R. 6:1-3 differently. The Management Committee thus concluded that the judge should be the final arbiter of these motions, not a clerk. It was noted that a *sua sponte* order prepared by the clerk can be used when no motion has been filed and venue does not lie in the county where the complaint was served. This Committee took no further action on the proposal.

## **B. Proposed Amendment to R. 6:6-1 – Motions For Summary Judgment**

The Committee of Special Civil Part Supervising Judges discussed the propriety of treating summary judgment and other case-dispositive motions in the Special Civil Part as 10-day motions pursuant to Rules 6:3-3 and 6:6-1. During the discussion the Judges considered the text of Rules 4:46 and 6:6-1, the latter of which makes the Part IV rule applicable to Special Civil Part cases. It was reported that all agreed that motions for summary judgment fall within the ambit of R. 6:3-3(c) and are thus to be filed as 10-day motions rather than in the 28-day return-day format used in the Civil Part of the Law Division. The Judges felt that the amount of time allowed for a response is adequate and noted that most judges do not deal with the motions on the 11th day following notice, that clerks generally schedule the motions so as to allow sufficient time for the response to be received and filed and that the judge, in any event, can hold the motions for further consideration as needed. The question presented for the Special Civil Part Practice Committee was whether R. 6:6-1 should be clarified in this regard. The Committee concluded that the rules are clear on this subject and concurred with the Judges Committee that the procedure as applied is fair to the litigants.

### **C. Proposed Amendment to R. 6:6-5 – Marking Case Jacket in Landlord-Tenant Actions**

Rule 6:6-5 deals with the procedure for noting the results of a trial on the case jacket and entry of the judgment into the docket. It states:

Upon receipt of the verdict of a jury, or upon determination by a judge sitting without a jury, the clerk shall note the judgment on the jacket and it shall take effect forthwith. The clerk shall thereupon enter the judgment and tax the costs.

The Committee considered a proposal submitted by a judge to amend the rule so as to explicitly extend its requirement of a notation on the case jacket to landlord-tenant actions, not just those actions in which a jury verdict is returned or a judge hears a matter without a jury. The proponent believes that this will avoid having the Appellate Division require formal orders when emergency applications in landlord-tenant cases are denied.

During the Committee's discussion it became evident that the vicinages have a variety of methods for dealing with this issue. In some counties the clerk notes the result of a trial on the case jacket. Another uses a disposition sheet to note the result. In one or more counties the judge signs an order in each case as a matter of course. In another county form orders are used for all post judgment motions. It was noted that the introduction of electronic filing in landlord-tenant cases at some point in the future will result in the elimination of paper case jackets. It was also noted that the current records retention schedule set forth in Administrative Directive #03-01 calls for the destruction of landlord-tenant case jackets after two years, in cases in which there was a judgment, or one year for cases in which there was no judgment. It was further noted that the audio recording of the proceeding can be used to help in preparing an order. In short, the consensus of the Committee is that the methods used for generating an order when the denial of a post-judgment motion for relief in a tenancy action is appealed will vary from county to county, depending on the size of the caseload, the availability of court support staff and the complexity of the particular case. For these reasons there was no support for the proposed amendment.

#### **D. Proposed Amendment to R. 6: 6-6(b) - Good Cause to Issue Order for Orderly Removal**

A member of the Committee proposed to amend R. 6:6-6 (b) to require a showing of “good cause” or “good reason” by the tenant in order to obtain an order for orderly removal. The Harris Announcement (previously approved by the Supreme Court as Appendix XI-S to the rules), provides in paragraph 6 (b) (3), that the tenant has to show “good reason” in an application for an orderly removal. The suggestion essentially is that the court rule should mirror the statements in the Harris Announcement. This idea was endorsed by the Special Civil Part Management Committee.

During the Committee’s discussion, proponents of the amendment argued that the language in the rule and the Harris Announcement should be congruent, while opponents felt that a change in the language of the rule would upset the current balance, in which landlords routinely acquiesce in the issuance of the order when a tenant needs additional time to evacuate the premises because, for example, the tenant’s new apartment is not ready for immediate occupancy, all without the need for an additional hearing. It was pointed out that “good cause” is a legal standard that is not contemplated by the current rule or the terminology used in the Harris Announcement. The source of the orderly removal concept was the opinion in Housing Authority of Newark v. West, 69 N.J. 293, 300-301(1976), where the Court stated that it is within the inherent discretion of the judge “to stay the warrant for possession for a reasonable period of time to allow a tenant in distressed circumstances to arrange for his voluntary removal from the premises.” By a majority of one, the Committee rejected the proposed amendment.

### **E. Proposed Amendment to R. 6:7-1(d) – Mode of Serving Warrant for Removal**

A member of the Committee pointed out that the rules omit any specific reference as to how warrants of removal should be served upon tenants and executed by a Special Civil Part Officer. The member suggested that R. 6:7-1(d) be amended to state specifically that the warrant is "to be served in the same manner that an officer serves the underlying LT summons and complaint," ... or some other language to that effect. The Committee decided not to amend the rule as suggested because the warrant of removal contains complete instructions for the Officer on how it is to be handled. The warrant is a mandatory form set forth in Appendix XI-G to the rules and it is generated by the court, rather than the litigants, so its contents are uniform in every case across the State.

### **III. OTHER RECOMMENDATIONS**

#### **A. Captions for Assigned Judgments**

Attorneys and court staff have experienced confusion and conflicting demands regarding what the caption should read on a post judgment application, motion, writ of execution or statement for docketing when the underlying judgment has been assigned to a new party. This is problematic for court staff as the executions and the statement for docketing are generated by the Automated Case Management System (ACMS) and attorneys often are not satisfied with the results. To remedy this problem AOC staff proposed that, in these court-generated documents, the original plaintiff be named first, followed by the name of the assignee, as this format more closely represents continuity with the original complaint. Thus the approved format would be “John Doe, Plaintiff by James Row, Assignee v. Tom Jones, Defendant.”

This would make the caption less confusing for anyone involved in the case, as well as making it easier for vicinage and Superior Court Clerk’s Office staff to track the case. Additionally, at the time the Committee reviewed the matter, ACMS was generating the caption in Special Civil Part wage executions one way and the caption in chattel executions another way; this solution will correct that problem. A rule change is not necessary, but the bar will be advised of the new practice via a Notice to the Bar. The Special Civil Part Management Committee, the Conference of Civil Division Managers, the Committee of Special Civil Part Supervising Judges and this Committee agree with this solution and changes to ACMS are being prepared to accommodate it.

**IV. LEGISLATION – NONE**

## **V. MATTERS HELD FOR CONSIDERATION**

### **A. Possible Amendments to R. 1:38-3 or 1:38-11 – Shielding Court Information About Tenants Who Prevail in Litigation With Their Landlords**

The Committee will consider proposals to shield information held by courts about tenants who prevail in litigation with their landlords. Currently the mere fact that a tenant has been involved in a tenancy action is often sufficient to disqualify them from consideration as a potential tenant by a new landlord. This information is readily available in computerized reports generated by the court system and is commonly retailed to landlords. The Committee is aware of the fact that any proposals to amend the rules regarding the availability of court held information to the public will have to be reviewed by the Supreme Court Advisory Committee on Public Access to Court Records.

## **B. Retention of Court Records in Landlord-Tenant Actions**

The Committee will consider whether to recommend that the current records retention schedule for landlord-tenant cases be changed. The current schedule calls for the destruction of the case jackets in cases that result in a judgment after two years. The length of time is one year for cases that do not result in a judgment. Tenants who have been involved with prior landlords in litigation and are now applying for new apartments or government-subsidized affordable housing find it impossible to obtain corroborating court documents when they were the prevailing party in the litigation if the case jacket has been destroyed. This diminishes the chances that they will be eligible to rent the new housing.

**C. Adequacy of Proofs for Entry of Judgment By Default (Held Over From 2010 -2012 Rules Cycle)**

A Subcommittee had been delegated the task of defining what evidence of the defendant's liability and the amount due on an assigned claim is required, beyond the requirements already set forth in R. 6:6-3(a), for entry of default judgment. The Subcommittee will also consider whether the rule should be amended in light of the Appellate Division's opinion in LVNV Funding, LLC v. Colvell, 421 N.J. Super 1 (App. Div. 2011).

**D. Proposed Amendment to R. 6:6-6(b) – Prohibiting Requirement that Tenant Waive Rights As Condition for Entry of an Order for Orderly Removal in Tenancy Actions**

A member of the Committee has proposed amending R. 6:6-6(b) to prohibit the conditioning of an order for orderly removal on a waiver by the tenant of any rights provided to them under the constitution, statute, court rule or judicial precedent. The Committee understands that this is a common practice in some of the vicinages and has requested the views of the Committee of Special Civil Part Supervising Judges and the Special Civil Part Management Committee on the subject.

## VI. CONCLUSION

The members of the Supreme Court Committee on Special Civil Part Practice appreciate the opportunity to have served the Supreme Court in this capacity.

Respectfully, Submitted,

Hon. Joseph R. Rosa, J.S.C., Chair  
Hon. Fred H. Kumpf, J.S.C. (Ret.), Vice Chair

Mary Braunschweiger, Civ. Div. Mgr.  
Felipe Chavana, Esq.  
JoAnn Ezze, Asst. Civ. Div. Mgr.  
Gerard J. Felt, Esq.  
Eric H. Fields, Court Officer  
Lloyd Garner, Esq., Asst. Civ. Div. Mgr.  
Hon. Melvin L. Gelade, J.S.C.  
Tracey Goldstein, Esq.  
Joanne Gottesman, Esq.  
Linda G. Hampton, Esq.  
William T. Harvey, Jr., Esq.  
Kennon Jenkins, Court Officer  
Hon. Allen J. Littlefield, J.S.C.  
Adolfo L. Lopez, Esq.  
David G. McMillin, Esq.  
Jonathan Mehl, Esq.  
Raymond F. Meisenbacher, Jr., Esq.  
Hon. Steven F. Nemeth, J.S.C.  
Connie M. Pascale, Esq.  
W. Peter Ragan, Sr., Esq.  
Hon. Barry P. Sarkisian, J.S.C.  
Stephen E. Smith, Esq.  
Clara Y. Son, Esq.  
Hon. Stephen J. Taylor, J.S.C.  
John N. Ukegbu, Esq.  
Andrew R. Wolf, Esq.  
Robert D. Pitt, Esq., AOC Staff

2014 Report of the Supreme  
Court Committee on Special  
Civil Part Practice

January 2, 2014

Appendix – A

Supplemental Report of the Joint Subcommittee  
on Post Judgment Interest  
to the  
Civil and Special Civil Part Practice Committees

October 31, 2013

---

ROBERT W. SMITH  
Director  
Trial Court Services

GLENN A. GRANT, J.A.D.  
Acting Administrative Director of the Courts

KEVIN M. WOLFE  
Assistant Director  
Civil Practice

---

[www.njcourts.com](http://www.njcourts.com) • Telephone #: (609) 292-8470 • Fax #: (609) 777-0844

**TO:** Civil and Special Civil Part Practice Committees

**FROM:** Robert D. Pitt, Chief, Special Civil Part Services

**RE:** Supplemental Report of the Joint Subcommittee on Post Judgment Interest

**DATE:** October 31, 2013

### **Introduction**

This Supplemental Report is submitted to the Supreme Court Committee on Civil Practice and the Supreme Court Committee on Special Civil Part Practice on behalf of the Joint Subcommittee on Post Judgment Interest established by the two rules committees. It sets forth a history of the activity by the committees and the Supreme Court during 2012 and 2013 and the recommendation of the Joint Subcommittee for a proposed amendment to R. 4:42-11(a)(ii). The amendment would, if adopted by the Supreme Court, retain the annual return of the New Jersey Cash Management Fund as the index for the post judgment interest rate, but would also set a floor of 0.25% as the minimum interest rate on judgments.

### **History**

The mechanism set forth in R. 4:42-11(a)(ii) bases the post-judgment interest rate on the rate of return earned by the New Jersey Cash Management Fund for the previous fiscal year, rounded to the nearest half or whole percent. A copy of the rule is attached. Since that return was only 0.15% for fiscal 2012, the post-judgment interest rate for calendar 2013 was initially set at 0%.

In its November 14, 2012 Report the Joint Subcommittee of the Civil and Special Civil Part Practice Committees proposed the adoption of an Order by the Supreme Court that would retain the current return of the N. J. Cash Management Fund as the index for the post judgment interest rate, but would relax and supplement the rule to include a provision that the rate will not go below 1% per annum. The Subcommittee's Report also recommended retention of the current provision in subparagraph (iii) of the rule that adds 2% to the base rate on judgments that exceed the monetary limit of the Special Civil Part, currently set by court rule at \$15,000.

On November 28, 2012, the two Practice Committees held a joint meeting and decided by a combined vote of 24 in favor and 17 opposed to endorse the recommendation of the Joint Subcommittee. The vote of the Civil Practice Committee members was 12 in favor and 10 opposed and the vote of the Special Civil Part Practice Committee members was 12 in favor and 7 opposed. On December 3 Legal Services of New Jersey, Inc. (LSNJ) submitted a minority report opposing the recommendation.

Additional information was subsequently provided by the AOC to the Supreme Court regarding the mechanism by which the post judgment interest rate is determined for civil judgments in the federal courts and a summary of the variations in that rate over the previous two years. Basically, the rate is the weekly average of the nominal yield for 1-year constant maturity Treasury bonds, as published by the Federal Reserve System. The rate is determined on the last day of the week preceding the week in which it will be applied and thus fluctuates from week to week. It was reported to the Supreme Court that the Civil and Special Civil Part Practice Committees decided not to recommend use of the federal mechanism for determining New Jersey's rate of post judgment interest because the weekly changes would unnecessarily complicate the task of calculating accrued interest over a long period of time in hundreds of thousands of cases.

It was also reported to the Court, however, that an examination of the federal rate on a monthly basis over a two-year period, as reported on the Federal Reserve System's website, indicated that the federal post judgment interest rate had not exceeded 0.25% for over a year and a half. To the extent that consistency between the federal rate and New Jersey's rate is desirable, this fact suggested that the floor for New Jersey's rate should be set at 0.25%, rather than the 1% proposed by the Civil and Special Civil Part Practice Committees. The lower rate would more accurately reflect current economic conditions, as measured by the 0.15% return reported by the N.J. Cash Management Fund for the fiscal year ending June 30, 2012. It was this 0.15% return, rounded to the nearest whole or half percent, as required by R. 4:42-11, that led to the 0% rate for calendar 2013. It was noted that if the rounding factor were removed from the rule, a rate of 0.15% for all of 2013 would be somewhat lower than the average federal rate for 2012. For this reason, supplementing the rule to set a floor of 0.25% was perceived to be preferable to removing the rounding factor. It was also noted that a floor of 0.50% would be closer to the 1% floor recommended by the two Practice Committees.

With all of this information at hand, the Supreme Court decided, as an interim measure pending further recommendations by the Civil and Special Civil Part Practice Committees, to issue an Order, retroactive to January 1, 2013, that retains the return of the N.J. Cash Management Fund as the index for the post judgment interest rate, but relaxes and supplements R. 4:42-11(a)(ii) to include a provision that the rate will not go below 0.25% per annum. The Court concurred with the recommendation of the Civil and Special Civil Part

Practice Committees for retention of the current provision in subparagraph (iii) of the rule that adds 2% to the base rate on judgments that exceed the monetary limit of the Special Civil Part. The interest rate for those judgments is thus 2.25% per annum. Copies of the Supreme Court's Order and the Notice to the Bar on this subject are attached.

The Joint Subcommittee on Post Judgment Interest reconvened on September 9, 2013, to consider what steps should be taken next. Additional material considered by the Joint Subcommittee consisted of a 31-page Microsoft Word file which contains a table provided by Dean Andrew Rothman's research assistant showing interest rate data for each of the other 49 states. The file is labeled "Interest Rates in USA" and a copy is attached to this report. The result of the meeting was a recommendation by the majority that the return of the New Jersey Cash Management Fund should be retained as the index for the post judgment interest rate, but the rule should be amended to set a floor of 0.25% as the minimum interest rate on judgments. The rationale for this recommendation is set forth below in this report. The Subcommittee agreed, however, that those who primarily represent creditor and debtor interests should be given the opportunity to present their views to the two Rules Committees at a joint meeting to be held on December 10, 2013. Their minority reports will be submitted to staff by November 15 for circulation to the membership of both Committees in advance of the joint meeting.

### Rationale

In addressing the question of what is an appropriate rate of interest on civil judgments, the Joint Subcommittee was mindful of the purposes of post judgment interest as articulated by the Civil Practice Committee in its 1985 and 1996 Reports to the Supreme Court. These two reports proposed the two key elements of the current rule for setting the rate, namely that there should be a fluctuating rate pegged to the annual rate of return on the Cash Management Fund and that an additional 2% should be added to the rate for judgments that exceed the monetary limit of the Special Civil Part. In those reports the Civil Practice Committee stated and reiterated that the rate should be high enough to encourage debtors (particularly insurance companies in tort cases) to satisfy judgments against them, while at the same time low enough to compel creditors to pursue their remedies of levy and execution so that the judgments would be satisfied of record. The Committee also stated in those reports that the rate should be neutral in that it would favor neither debtors nor creditors, that it should be commercially reasonable without providing an attractive investment and that it should not penalize either the average creditor who is unable to collect a judgment, or the average debtor who is unable to pay it. The Supreme Court presumably adopted the Committee's rationale in accepting its recommendations.

The Joint Subcommittee had concluded in its November 14, 2012 Report that the current method for determining the rate may not produce a result (0%) that is commercially reasonable in an economic environment of extremely low interest rates on certificates of deposit, money market accounts and other investments utilized by the Cash Management

Fund and thus began to discuss possible alternatives. The complexity of the alternatives led the Subcommittee to recommend, as an interim solution, retention of the Cash Management Fund as the index for setting the post judgment interest rate, but with an added proviso that the rate thus calculated should not fall below 1% per annum. The Supreme Court, as noted above, agreed that a rate of 0% is too low, but set the floor at 0.25%, rather than 1%.

In its search for an alternative index for setting the post judgment interest rate, the Joint Subcommittee looked at the rates used in other states, as set forth in the above-mentioned "Interest Rates in USA" report. The results of that study indicated that in nearly all of the other states the post judgment interest rate is set by statute and many of them have rates of 5 to 7% per year. Seventeen (17) of the states utilize an approach similar in concept to New Jersey's, in that an external index, such as the federal discount rate or the rate on 6-month, 1-year, 5-year or 10-year U.S. Treasury notes, serves as a fluctuating base rate and an additional 1% to 4% is added to the base. In 6 of these states the rate thus calculated yields a result that is close to New Jersey's when the 2% is added for judgments that exceed the \$15,000 limit of the Special Civil Part. In short, the Joint Subcommittee found that there was no compelling reason to choose a base index other than the Cash Management Fund's rate of return, since they all reflect the current state of the economy and thus yield a comparable result, depending on the amount that is added to the base.

Having decided to recommend retention of the Cash Management Fund's rate of return as the base index, the Joint Subcommittee turned to the question of what floor to recommend as the level below which the post judgment interest rate should not descend. The 0.25% minimum rate chosen by the Supreme Court on an interim basis in January, 2013, is reflective of current economic conditions in New Jersey, as measured by the return of the Cash Management Fund, and would keep the New Jersey rate in line with the federal post judgment interest rate. It is also consistent, in the view of the Subcommittee, with the purposes of post judgment interest articulated in the 1985 and 1996 reports of the Civil Practice Committee. to the Supreme Court.

## Conclusion

For the reasons set forth above in this report, the Joint Subcommittee on Post Judgment Interest recommends that R. 4:42-11(a)(ii) be amended to set 0.25% as the minimum interest rate on civil judgments in New Jersey. The Subcommittee also recommends that the Cash Management Fund's rate of return for the preceding fiscal year be retained as the base index and that the additional 2% for judgments that exceed the monetary limit of the Special Civil Part (currently \$15,000) also be retained. The proposed amendment follows.

## **Proposed Amendment to Rule 4:42-11(a) --- Interest Rate on Judgments**

### 4:42-11. Interest; Rate on Judgments; in Tort Actions

(a) Post Judgment Interest. Except as otherwise ordered by the court or provided by law, judgments, awards and orders for the payment of money, taxed costs and attorney's fees shall bear simple interest as follows:

(i) For periods prior to January 2, 1986, the annual rate of return shall be as heretofore provided by this rule, namely, 6% for the period prior to April 1, 1975; 8% for the period between April 1, 1975 and September 13, 1981; and 12% for the period between September 14, 1981 and January 1, 1986.

(ii) For judgments not exceeding the monetary limit of the Special Civil Part at the time of entry, regardless of the court in which the action was filed: commencing January 2, 1986 and for each calendar year thereafter, the annual rate of interest shall equal the average rate of return, to the nearest whole or one-half percent, for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment in the Department of the Treasury, but the rate shall be not be less than 0.25%.

(iii) For judgments exceeding the monetary limit of the Special Civil Part at the time of entry: in the manner provided for in subparagraph (a)(ii) of this Rule until September 1, 1996; thereafter, at the rate provided in subparagraph (a)(ii) plus 2% per annum.

Post-judgment interest may be included in the calculation of an attorney's contingency fee.

(b) Tort Actions. ... no change

Note: Adopted December 21, 1971 to be effective January 31, 1972. Paragraph (b) amended June 29, 1973 to be effective September 10, 1973; paragraphs (a) and (b) amended November 27, 1974 to be

---

effective April 1, 1975; paragraphs (a) and (b) amended July 29, 1977 to be effective September 6, 1977; paragraphs (a) and (b) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a)(ii) amended and paragraph (a)(iii) added June 28, 1996 to be effective September 1, 1996; paragraph (b) amended April 28, 2003 to be effective July 1, 2003; paragraph (a) amended July 23, 2010 to be effective September 1, 2010; paragraph (a)(ii) amended \_\_\_\_\_, 2014 to be effective September 1, 2014.

## CURRENT RULE 4:42-11

### 4:42-11. Interest; Rate on Judgments; in Tort Actions

**(a) Post Judgment Interest.** Except as otherwise ordered by the court or provided by law, judgments, awards and orders for the payment of money, taxed costs and attorney's fees shall bear simple interest as follows:

(i) For periods prior to January 2, 1986, the annual rate of return shall be as heretofore provided by this rule, namely, 6% for the period prior to April 1, 1975; 8% for the period between April 1, 1975 and September 13, 1981; and 12% for the period between September 14, 1981 and January 1, 1986.

(ii) For judgments not exceeding the monetary limit of the Special Civil Part at the time of entry, regardless of the court in which the action was filed: commencing January 2, 1986 and for each calendar year thereafter, the annual rate of interest shall equal the average rate of return, to the nearest whole or one-half percent, for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment in the Department of the Treasury.

(iii) For judgments exceeding the monetary limit of the Special Civil Part at the time of entry: in the manner provided for in subparagraph (a)(ii) of this Rule until September 1, 1996; thereafter, at the rate provided in subparagraph (a)(ii) plus 2% per annum.

Post-judgment interest may be included in the calculation of an attorney's contingency fee.

**(b) Tort Actions.** Except where provided by statute with respect to a public entity or employee, and except as otherwise provided by law, the court shall, in tort actions, including products liability actions, include in the judgment simple interest, calculated as hereafter provided, from the date of the institution of the action or from a date 6 months after the date the cause of action arises, whichever is later, provided that in exceptional cases the court may suspend the running of such prejudgment interest. Prejudgment interest shall not, however, be allowed on any recovery for future economic losses. Prejudgment interest shall be calculated in the same amount and manner provided for by paragraph (a) of this rule except that for all periods prior to January 1, 1988 interest shall be calculated at 12% per annum. The contingent fee of an attorney shall not be computed on the interest so included in the judgment.

Note: Adopted December 21, 1971 to be effective January 31, 1972. Paragraph (b) amended June 29, 1973 to be effective September 10, 1973; paragraphs (a) and (b) amended November 27, 1974 to be effective April 1, 1975; paragraphs (a) and (b) amended July 29, 1977 to be effective September 6, 1977; paragraphs (a) and (b) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; paragraph (b) amended November 2, 1987 to be effective January 1, 1988; paragraph (a)(ii) amended and paragraph (a)(iii) added June 28, 1996 to be effective September 1, 1996; paragraph (b) amended April 28, 2003 to be effective July 1, 2003; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

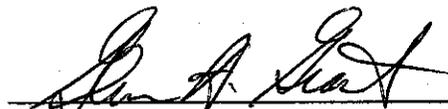
## NOTICE TO THE BAR

### POST-JUDGMENT INTEREST RATE ESTABLISHED FOR CALENDAR YEAR 2013 (RULE 4:42-11(a)(ii))

The purpose of this notice is to clarify the effect of the previously published January 15, 2013 Supreme Court order (copy appended) regarding the post-judgment interest rate for calendar 2013.

The Supreme Court entered the January 15, 2013 order as an interim measure to adjust the 0% rate of post-judgment interest that was previously announced in a July 24, 2012 notice to the bar. The January 15, 2013 order relaxed and supplemented Court Rule 4:42-11(a)(ii) so as to revise the base 2013 post-judgment interest rate from 0% to 0.25%, retroactive to January 1, 2013. Thus, the 2013 post-judgment interest rate for judgments of \$15,000 or less is 0.25% and, pursuant to paragraph (a)(iii) of the rule, for judgments over \$15,000 the 2013 post-judgment interest rate is 2.25%.

The formula for determining the annual post-judgment interest rate set forth in R. 4:42-11(a)(ii) is based on the rate of return for the New Jersey Cash Management Fund for the previous fiscal year (that rate of return was 0.15% for fiscal 2012), rounded to the nearest half or whole percent (which resulted in the now superseded 0% rate). The Supreme Court Civil Practice Committee and Special Civil Part Practice Committee continue to study the rule and will make recommendations as to possible revisions to the formula in the rule for the Court to consider during the Committees' current rules cycle (2012-2014).



---

Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: February 11, 2013

## SUPREME COURT OF NEW JERSEY

Whereas Rule 4:42-11(a)(ii) of the Rules Governing the Courts of the State of New Jersey provides that the annual rate of interest on judgments that do not exceed the monetary limit of the Special Civil Part, regardless of the court in which the action was filed, shall equal the average rate of return of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment in the Department of the Treasury for the preceding fiscal year terminating on June 30, to the nearest whole or one-half percent; and whereas based on that calculation the post-judgment interest rate for such judgments for calendar year 2013 was established and announced as zero percent (0%);

Pursuant to N.J. Const. (1947), Art. VI, § 2, par. 3, it is ORDERED that Rule 4:42-11 is relaxed and supplemented, retroactive to January 1, 2013, so as to provide that effective January 1, 2013 and until further order, the annual rate of interest on judgments that do not exceed the monetary limit of the Special Civil Part calculated pursuant to paragraph (a)(ii) of the Rule shall be not be less than 0.25%, and that, as currently provided by paragraph (a)(iii) of the Rule, an additional 2% per annum shall be added to the rate of interest on judgments that exceed the monetary limit of the Special Civil Part at the time of entry;

This supersedes the July 24, 2012 Notice to the Bar that established the 2013 post-judgment interest rate.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: January 15, 2013

# Interest Rates in U.S.A.

---

Post Judgment Interest In States Other Than New Jersey

**5/11/2013**

State	Interest rate	Source	Note
Alabama,AL	7.5% or contract	ALA CODE § 8-8-10	
Alaska,AK	3.75% or contract	AK ST § 09.30.070	The rate of interest on judgments and decrees for the payment of money is calculated as three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered. Federal Reserve Discount Rate on January 2, 2013 is 0.75%.
Arizona,AZ	10% or contract	A.R.S. § 44-1201	
Arkansas,AR	10% or contract whichever is greater	AR ST § 16-65-114	
California,CA	10% or contract	CA CIV PRO § 685.01	
Colorado,CO	Contract - 8% compounded annually or contract Personal injury - 9% compounded annually	CO ST § 5-12-102; CRS § 13-21-101(1)	If a judgment debtor appeals the judgment, the interest rate is calculated as 2 percentage point above the current discount rate, including the compounding interest annually from the date that the suit was filed.
Connecticut,CT	10% debt arising out of services provided at a hospital - 5%.	CT ST § 37-3a	If the judgment is appealed than the interest is tolled while appeal is pending.
Delaware,DE	5% over the Federal Discount rate or contract, whichever is greater	DEL CODE ANN. 6 § 2301	
DC	70% of the rate of interest set by the Secretary of the Treasury for underpayments of tax to the Internal Revenue Service.	DC CODE § 28-3302	The rate is not fixed but is variable.

Florida,FL	4%+average the discount rate of the Federal Reserve Bank of New York for the preceding 12 months	FL ST § 55.03	The rate is adjusted quarterly. The current rate is 4.75%.
Georgia,GA	3.75% or contract	GA ST § 7-4-12	Only the principal amount recovered accrues interest. PJIR is 3% plus prime rate.
Hawaii,HI	10% or contract 4% against State	HI ST § 478-3	
Idaho,ID	5.25% or contract	ID ST § 28-22-104	PJIR is 5% plus the base rate in effect at the time of entry of the judgment. The base rate shall be the weekly average yield on United States treasury securities as adjusted to a constant maturity of one (1) year. The current base rate is 0.25%.
Illinois,IL	Judgment against govt entity - 9% Other - 6%	735 ILCS 5/2-1303	
Indiana,IN	8% or contract, whatever is greater, but not to exceed 8%.	IC 24-4.6-1-101	
Iowa,IA	Contract and Tort (not under comparative fault) - 5% or contract, not to exceed 2% over monthly average ten-year constant maturity interest rate of the U.S. government notes and bonds. Comparative fault - 2.16%.	I.C.A. § 535.2 IA ST § 668.13	Rate of interest for Comparative Fault is calculated as of the date of judgment at a rate equal to the one-year treasury constant maturity index published by Federal Reserve in H.15 Report settled immediately prior to date of judgment, plus 2%. The current constant maturity index is 0.16%.
Kansas,KS	4.75% or contract	KS ST 16-204	PJIR is 4% plus federal discount rate, which is currently 4.75%
Kentucky,KY	12% compounded annually or rate specified in contract	KY ST § 360.040	

Louisiana,LA	4% or contract (not to exceed 12%).	LA R.S. 13:4202	PJIR is 3.25% plus the discount rate on October 1 of each year
Maine,ME	6.16% or contract, whichever is greater.	14 M.R.S.A. § 1602-C	For non-contracts - one-year United States Treasury bill rate plus 6%. For contracts, rate is the rate set forth in the contract or one-year United States Treasury bill rate plus 6%, whichever is greater.
Maryland,MD	10%	MD CTS & JUD PRO § 11-107	
Massachusetts,MA	Contract and Tort - 12%	M.G.L.A. 231 § 6B M.G.L.A. 231 § 6C	
Michigan,MI	1.687% (compounded) or contract	MI ST 600.6013	PJIR is 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1 and compounded annually. If offer of judgment of at least 110% of the ultimate recovery is offered but declined, then the interest rate is increased by 2%.
Minnesota,MN	Under \$50,000 or against government - 4% Above \$50,000 - 10%	Minn. Stat. §549.09	Like in New Jersey, there is a higher post-judgment interest rate for a bigger judgment
Mississippi,MS	Reasonable interest or contract	MS ST § 75-17-7	The only state where the interest rate is set by judge
Missouri,MO	9%	MO ST 408.040	
Montana,MT	10% or contract	MT ST 25-9-205	
Nebraska,NE	2.09% or contract	Neb.Rev. St. § 45-103	PJIR is 2% plus auction price for first auction of each annual quarter of the 26-week U.S. Treasury bills in effect on date of judgment.
Nevada,NV	5.25% or contract	NV ST 17.130	PJIR is 2% plus prime rate at the largest bank in Nevada adjusted on Jan 1 and July 1 each year (which is currently 3.25%)
New Hampshire,NH	2.1%	NH ST § 336:1	PJIR is 2% plus discount rate for the 26-week U.S. Treasury bills

	Contract – 8.75%, or rate provided in the contract. Tortious conduct, bad faith or intentional and willful acts – 15%. State and its political subdivisions are exempt unless law provides otherwise.		
New Mexico,NM		NM ST § 56-8-4	The highest PJIR in the nation
New York,NY	9%	CPLR § 5004	Unless otherwise prescribed by statute
North Carolina,NC	6%	N.C.G.S.A. § 40A-53	
North Dakota,ND	6.5%	ND ST 28-20-34	PJIR is 3% plus the prime rate published in the Wall Street Journal on the first Monday in December of each year, rounded up to the next one half percentage point
Ohio,OH	3%	R.C. § 1343.03	PJIR is rate set annually by the state tax commissioner plus 3%
Oklahoma,OK	5.35%	OK ST T. 12 § 727.1	2% plus the prime interest rate
Oregon,OR	General - 9% or contract. Professional negligence - the lesser of 5% per annum or 3% in excess of the discount rate in effect at the Federal Reserve Bank in the Federal Reserve District where the injuries occurred.	OR ST § 82.010	
Pennsylvania,PA	6% or contract	41 P.S. § 202	
Rhode Island,RI	12%	RI ST § 9-21-8	
South Carolina,SC	7.25% (compounded yearly)	SC ST § 34-31-20	4% plus the prime rate for each year
South Dakota,SD	10%	SDCL § 54-3-5.1	

Tennessee,TN	5.25%	TN ST § 47-14-121	PJIR is formula determined by Tennessee Department of Financial Institutions. minus 2%, unless there is a statute, note or contract that fixes the rate of interest at a specific rate. The current formula is 7.25%
Texas,TX	Contract - contract rate but up to 18% Other 5%	V.T.C.A., Finance Code § 304.002 V.T.C.A., Finance Code § 304.003	The PJIR is the prime rate as published by the Board of Governors of the Federal Reserve System on the date of computation, 5% a year if the prime rate is less than 5%, or 15% a year if the prime rate is more than 15%
Utah,UT	0.15% or contract	U.C.A. 1953 § 15-1-4	PJIR is federal rate in 28 U.S.C. § 1961
Vermont,VT	12%	VT ST T. 12 § 2903	
Virginia,VA	6% or contract	VA ST § 6.1-330.54	
Washington,WA	Contract - 12% or contract Tort - 2.09%	RCWA 4.56.110	Tort PJIT is 2% plus average bill rate for 26-week treasury bills
West Virginia,WV	7%	WV ST § 56-6-31	PJIR is 3% plus the Fifth Federal Reserve District secondary discount rate in effect on the second day of January of the year in which the judgment or decree is entered. However, not less than 7%, and not more than 11%
Wisconsin,WI	4.25%	Wis. Stat. § 815.05(8)	PJIR is 1% plus the prime rate of the year
Wyoming,WY	10% or contract	WY ST § 1-16-102	

1. Alabama,AL

ALA CODE § 8-8-10

(a) Judgments for the payment of money, other than costs, if based upon a contract action, bear interest from the day of the cause of action, at the same rate of interest as stated in the contract; all other judgments shall bear interest at the rate of 7.5 percent per annum, the provisions of Section 8-8-1 to the contrary notwithstanding; provided, that fees allowed a trustee, executor, administrator, or attorney and taxed as a part of the cost of the proceeding shall bear interest at a like rate from the day of entry.

(b) This section shall apply to all judgments entered on and after September 1, 2011.

2. Alaska,AK

AS § 09.30.070

(a) Notwithstanding AS 45.45.010, the rate of interest on judgments and decrees for the payment of money, including prejudgment interest, is three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered, except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract, bears interest at the rate specified in the contract if the interest rate is set out in the judgment or decree.

3. Arizona,AZ

A.R.S. § 44-1201

A. Interest on any loan, indebtedness or other obligation shall be at the rate of ten per cent per annum, unless a different rate is contracted for in writing, in which event any rate of interest may be agreed to. Interest on any judgment that is based on a written agreement evidencing a loan, indebtedness or obligation that bears a rate of interest not in excess of the maximum permitted by law shall be at the rate of interest provided in the agreement and shall be specified in the judgment.

4. Arkansas,AR

AR ST § 16-65-114

(a) Interest on a judgment entered by a circuit court on a contract shall bear interest at the rate provided by the contract or ten percent (10%) per annum, whichever is greater, and on any other judgment at ten percent (10%) per annum, but not more than the maximum rate permitted by the Arkansas Constitution, Article 19, § 13, as amended.

5. California,CA

CA CIV PRO § 685.010

(a) Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied.

6. Colorado,CO

CO ST § 5-12-102

If there is no agreement or provision of law for a different rate, the interest on money shall be at the rate of eight percent per annum, compounded annually.

7. C.R.S.A. § 13-21-101

(1) In all actions brought to recover damages for personal injuries sustained by any person resulting from or occasioned by the tort of any other person, corporation, association, or partnership, whether by negligence or by willful intent of such other person, corporation, association, or partnership and whether such injury has resulted fatally or otherwise, it is lawful for the plaintiff in the complaint to claim interest on the damages alleged from the date said suit is filed; and, on and after July 1, 1979, it is lawful for the plaintiff in the complaint to claim interest on the damages claimed from the date the action accrued. When such interest is so claimed, it is the duty of the court in entering judgment for the plaintiff in such action to add to the amount of damages assessed by the verdict of the jury, or found by the court, interest on such amount calculated at the rate of nine percent per annum on actions filed on or after July 1, 1975, and at the legal rate on actions filed prior to such date, and calculated from the date such suit was filed to the date of satisfying the judgment and to include the same in said judgment as a part thereof. On actions filed on or after July 1, 1979, the calculation shall include compounding of interest annually from the date such suit was filed. On and after January 1, 1983, if a judgment for money in an action brought to recover damages for personal injuries is appealed by the judgment debtor, interest, whether prejudgment or postjudgment, shall be calculated on such sum at the rate set forth in subsections (3) and (4) of this section from the date the action accrued and shall include compounding of interest annually from the date such suit was filed.

(2)(a) If a judgment for money in an action brought to recover damages for personal injuries is appealed by a judgment debtor and the judgment is affirmed, interest, as set out in subsections (3) and (4) of this section, shall be payable from the date the action accrued until satisfaction of the judgment.

(b) If a judgment for money in an action to recover damages for personal injuries is appealed by a judgment debtor and the judgment is modified or reversed with a direction

that a judgment for money be entered in the trial court, interest, as set out in subsections (3) and (4) of this section, shall be payable from the date the action accrued until the judgment is satisfied. This interest shall be payable on the amount of the final judgment.

(3) The rate of interest shall be certified on each January 1 by the secretary of state to be two percentage points above the discount rate, which discount rate shall be the rate of interest a commercial bank pays to the federal reserve bank of Kansas City using a government bond or other eligible paper as security, and shall be rounded to the nearest full percent. Such annual rate of interest shall be so established as of December 31, 1982, to become effective January 1, 1983. Thereafter, as of December 31 of each year, the annual rate of interest shall be established in the same manner, to become effective on January 1 of the following year.

8. Connecticut,CT
-------------------

CT ST § 37-3a

(a) Except as provided in sections 37-3b, 37-3c and 52-192a, interest at the rate of ten per cent a year, and no more, may be recovered and allowed in civil actions or arbitration proceedings under chapter 909,1 including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insurance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance or both. Whenever the maker of any contract is a resident of another state or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made or such mortgage security is located.

(b) In the case of a debt arising out of services provided at a hospital, prejudgment and postjudgment interest shall be no more than five per cent per year. The awarding of interest in such cases is discretionary.

9. Delaware,DE
----------------

DEL CODE ANN. 6 § 2301

(a) Any lender may charge and collect from a borrower interest at any rate agreed upon in writing not in excess of 5% over the Federal Reserve discount rate including any surcharge thereon. Where there is no expressed contract rate, the legal rate of interest shall be 5% over the Federal Reserve discount rate including any surcharge as of the time from which

interest is due; provided, that where the time from which interest is due predates April 18, 1980, the legal rate shall remain as it was at such time. Except as otherwise provided in this Code, any judgment entered on agreements governed by this subsection, whether the contract rate is expressed or not, shall, from the date of the judgment, bear post-judgment interest of 5% over the Federal Reserve discount rate including any surcharge thereon or the contract rate, whichever is less.

10. District of Columbia

DC CODE § 28-3302

(c) The rate of interest on judgments and decrees, where the judgment or decree is not against the District of Columbia, or its officers, or its employees acting within the scope of their employment or where the rate of interest is not fixed by contract, shall be 70% of the rate of interest set by the Secretary of the Treasury pursuant to section 6621 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2744; 26 U.S.C. § 6621), for underpayments of tax to the Internal Revenue Service, rounded to the nearest full percent, or if exactly 1/2 of 1%, increased to the next highest full percent; provided, that a court of competent jurisdiction may lower the rate of interest under this subsection for good cause shown or upon a showing that the judgment debtor in good faith is unable to pay the judgment. In the case of the judgments entered prior to the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, that are not satisfied until after the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, the rate of interest thereon shall be the rate of interest prescribed in this subsection from the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, until the date of satisfaction.

11. Florida,FL

FL ST § 55.03

(1) On December 1, March 1, June 1, and September 1 of each year, the Chief Financial Officer shall set the rate of interest that shall be payable on judgments or decrees for the calendar quarter beginning January 1 and adjust the rate quarterly on April 1, July 1, and October 1 by averaging the discount rate of the Federal Reserve Bank of New York for the preceding 12 months, then adding 400 basis points to the averaged federal discount rate. The Chief Financial Officer shall inform the clerk of the courts and chief judge for each judicial circuit of the rate that has been established for the upcoming quarter. The interest rate established by the Chief Financial Officer shall take effect on the first day of each following calendar quarter. Judgments obtained on or after January 1, 1995, shall use the previous statutory rate for time periods before January 1, 1995, for which interest is due and shall apply the rate set by the Chief Financial Officer for time periods after January 1,

1995, for which interest is due. Nothing contained herein shall affect a rate of interest established by written contract or obligation.

12. Georgia,GA

GA ST § 7-4-12

(a) All judgments in this state shall bear annual interest upon the principal amount recovered at a rate equal to the prime rate as published by the Board of Governors of the Federal Reserve System, as published in statistical release H. 15 or any publication that may supersede it, on the day the judgment is entered plus 3 percent.

(b) If the judgment is rendered on a written contract or obligation providing for interest at a specified rate, the judgment shall bear interest at the rate specified in the contract or obligation.

(c) The postjudgment interest provided for in this Code section shall apply automatically to all judgments in this state and the interest shall be collectable as a part of each judgment whether or not the judgment specifically reflects the entitlement to postjudgment interest.

13. Hawaii,HI

HI ST § 478-3

Interest at the rate of ten per cent a year, and no more, shall be allowed on any judgment recovered before any court in the State, in any civil suit.

14. Idaho,ID

ID ST § 28-22-104

(1) When there is no express contract in writing fixing a different rate of interest, interest is allowed at the rate of twelve cents (12¢) on the hundred by the year on:

1. Money due by express contract.
2. Money after the same becomes due.
3. Money lent.
4. Money received to the use of another and retained beyond a reasonable time without the owner's consent, express or implied.
5. Money due on the settlement of mutual accounts from the date the balance is ascertained.

6. Money due upon open accounts after three (3) months from the date of the last item.

(2) The legal rate of interest on money due on the judgment of any competent court or tribunal shall be the rate of five percent (5%) plus the base rate in effect at the time of entry of the judgment. The base rate shall be determined on July 1 of each year by the Idaho state treasurer and shall be the weekly average yield on United States treasury securities as adjusted to a constant maturity of one (1) year and rounded up to the nearest one-eighth percent ( $\frac{1}{8}$  %). The base rate shall be determined by the Idaho state treasurer utilizing the published interest rates during the second week in June of the year in which such interest is being calculated. The legal rate of interest as announced by the treasurer on July 1 of each year shall operate as the rate applying for the succeeding twelve (12) months to all judgments declared during such succeeding twelve (12) month period. The payment of interest and principal on each judgment shall be calculated according to a three hundred sixty-five (365) day year.

15. Illinois, IL

735 ILCS 5/2-1303

Interest on judgment. Judgments recovered in any court shall draw interest at the rate of 9% per annum from the date of the judgment until satisfied or 6% per annum when the judgment debtor is a unit of local government, as defined in Section 1 of Article VII of the Constitution, a school district, a community college district, or any other governmental entity. When judgment is entered upon any award, report or verdict, interest shall be computed at the above rate, from the time when made or rendered to the time of entering judgment upon the same, and included in the judgment. Interest shall be computed and charged only on the unsatisfied portion of the judgment as it exists from time to time. The judgment debtor may by tender of payment of judgment, costs and interest accrued to the date of tender, stop the further accrual of interest on such judgment notwithstanding the prosecution of an appeal, or other steps to reverse, vacate or modify the judgment.

16. Indiana, IN

IC 24-4.6-1-101

Sec. 101. Except as otherwise provided by statute, interest on judgments for money whenever rendered shall be from the date of the return of the verdict or finding of the court until satisfaction at:

(1) the rate agreed upon in the original contract sued upon, which shall not exceed an annual rate of eight percent (8%) even though a higher rate of interest may properly have been charged according to the contract prior to judgment; or

(2) an annual rate of eight percent (8%) if there was no contract by the parties.

17. Iowa, IA
--------------

I.C.A. § 535.2 (Rate of interest)

1. Except as provided in subsection 2 hereof, the rate of interest shall be five cents on the hundred by the year in the following cases, unless the parties shall agree in writing for the payment of interest at a rate not exceeding the rate permitted by subsection 3:

a. Money due by express contract.

b. Money after the same becomes due.

c. Money loaned.

d. Money received to the use of another and retained beyond a reasonable time, without the owner's consent, express or implied.

e. Money due on the settlement of accounts from the day the balance is ascertained.

f. Money due upon open accounts after six months from the date of the last item.

g. Money due, or to become due, where there is a contract to pay interest, and no rate is stipulated.

IA ST § 668.13 (Comparative fault)

Interest shall be allowed on all money due on judgments and decrees on actions brought pursuant to this chapter, subject to the following:

1. Interest, except interest awarded for future damages, shall accrue from the date of the commencement of the action.

2. If the interest rate is fixed by a contract on which the judgment or decree is rendered, the interest allowed shall be at the rate expressed in the contract, not exceeding the maximum rate permitted under section 535.2.

3. Interest shall be calculated as of the date of judgment at a rate equal to the one-year treasury constant maturity published by the federal reserve in the H15 report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

4. Interest awarded for future damages shall not begin to accrue until the date of the entry of the judgment.

5. Interest shall be computed daily to the date of the payment, except as may otherwise be ordered by the court pursuant to a structured judgment under section 668.3, subsection 7.
6. Structured, periodic, or other nonlump-sum payments ordered pursuant to section 668.3, subsection 7, shall reflect interest in accordance with annuity principles.

18. Kansas,KS
---------------

KS ST 16-204 Interest on judgments

(e)(1) Except as otherwise provided in this subsection, on and after July 1, 1996, the rate of interest on judgments rendered by courts of this state pursuant to the code of civil procedure shall be at a rate per annum: (A) Which shall change effective July 1 of each year for both judgments rendered prior to such July 1 and judgments rendered during the twelve-month period beginning such July 1; and (B) which is equal to an amount that is four percentage points above the discount rate (the charge on loans to depository institutions by the New York federal reserve bank as reported in the money rates column of the Wall Street Journal) as of July 1 preceding the date the judgment was rendered. The secretary of state shall publish notice of the interest rate provided by this subsection (e)(1) not later than the second issue of the Kansas register published in July of each year.

19. Kentucky,KY
-----------------

KY ST § 360.040 Interest on judgment

A judgment shall bear twelve percent (12%) interest compounded annually from its date. A judgment may be for the principal and accrued interest; but if rendered for accruing interest on a written obligation, it shall bear interest in accordance with the instrument reporting such accruals, whether higher or lower than twelve percent (12%). Provided, that when a claim for unliquidated damages is reduced to judgment, such judgment may bear less interest than twelve percent (12%) if the court rendering such judgment, after a hearing on that question, is satisfied that the rate of interest should be less than twelve percent (12%). All interested parties must have due notice of said hearing.

20. Louisiana,LA
------------------

LA R.S. 13:4202 Rates of judicial interest

B. (1) On and after January 1, 2002, the rate shall be equal to the rate as published annually, as set forth below, by the commissioner of financial institutions. The commissioner of financial institutions shall ascertain, on the first business day of October of each year, the

Federal Reserve Board of Governors approved “discount rate” published daily in the Wall Street Journal. The effective judicial interest rate for the calendar year following the calculation date shall be three and one-quarter percentage points above the discount rate as ascertained by the commissioner.

21. Maine,ME

14 M.R.S.A. § 1602-C (Interest after judgment)

1. Rate. In all civil and small claims actions, post-judgment interest is allowed at a rate equal to:

A. In actions involving a contract or note that contains a provision relating to interest, the rate set forth in the contract or note or the rate in paragraph B, whichever is greater; and

B. In all other actions, the one-year United States Treasury bill rate plus 6%.

(1) For purposes of this paragraph, “one-year United States Treasury bill rate” means the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last full week of the calendar year immediately prior to the year in which post-judgment interest begins to accrue.

(2) If the Board of Governors of the Federal Reserve System ceases to publish the weekly average one-year constant maturity Treasury yield or it is otherwise unavailable, then the Supreme Judicial Court shall annually establish by rule a rate that most closely approximates the rate established in this paragraph.

The applicable post-judgment interest rate must be stated in the judgment, except for judgments in small claims actions.

22. Maryland,MD

MD CTS & JUD PRO § 11-107 (Rate of interest on judgments)

(a) Except as provided in § 11-106 of this subtitle, the legal rate of interest on a judgment shall be at the rate of 10 percent per annum on the amount of judgment.

23. Massachusetts,MA

M.G.L.A. 231 § 6B Interest added to damages in tort actions

In any action in which a verdict is rendered or a finding made or an order for judgment made for pecuniary damages for personal injuries to the plaintiff or for consequential damages, or for damage to property, there shall be added by the clerk of court to the

amount of damages interest thereon at the rate of twelve per cent per annum from the date of commencement of the action even though such interest brings the amount of the verdict or finding beyond the maximum liability imposed by law.

#### M.G.L.A. 231 § 6C Interest added to damages in contract actions

In all actions based on contractual obligations, upon a verdict, finding or order for judgment for pecuniary damages, interest shall be added by the clerk of the court to the amount of damages, at the contract rate, if established, or at the rate of twelve per cent per annum from the date of the breach or demand. If the date of the breach or demand is not established, interest shall be added by the clerk of the court, at such contractual rate, or at the rate of twelve per cent per annum from the date of the commencement of the action, provided, however, that in all actions based on contractual obligations, upon a verdict, finding or order for judgment against the commonwealth for pecuniary damages, interest shall be added by the clerk of the court to the amount of damages, at the contract rate, if established, or at a rate calculated pursuant to the provisions of section six I from the date of the breach or demand. If the date of the breach or demand is not established, such interest shall be added by the clerk of the court from the date of the commencement of the action.

24. Michigan,MI
-----------------

#### MI ST 600.6013 Interest rate on judgment; settlement

(8) Except as otherwise provided in subsections (5) and (7) and subject to subsection (13), for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. In an action for medical malpractice, interest under this subsection on costs or attorney fees awarded under a statute or court rule is not calculated for any period before the entry of the judgment. The amount of interest attributable to that part of the money judgment from which attorney fees are paid is retained by the plaintiff, and not paid to the plaintiff's attorney.

(13) Except as otherwise provided in subsection (1), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the

date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest calculated under subsection (8).

25. Minnesota, MN

Minn. Stat. §549.09 Interest on verdicts, awards, and judgments

(c)(1) For a judgment or award of \$50,000 or less or a judgment or award for or against the state or a political subdivision of the state, regardless of the amount, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

26. Mississippi, MS

MS ST § 75-17-7 Rate of interest on judgments and decrees

All judgments or decrees founded on any sale or contract shall bear interest at the same rate as the contract evidencing the debt on which the judgment or decree was rendered. All other judgments or decrees shall bear interest at a per annum rate set by the judge hearing the complaint from a date determined by such judge to be fair but in no event prior to the filing of the complaint.

27. Missouri, MO

MO ST 408.040 Interest on judgments, how regulated--prejudgment interest allowed when, procedure

1. In all nontort actions, interest shall be allowed on all money due upon any judgment or order of any court from the date judgment is entered by the trial court until satisfaction be made by payment, accord or sale of property; all such judgments and orders for money upon contracts bearing more than nine percent interest shall bear the same interest borne by such contracts, and all other judgments and orders for money shall bear nine percent per annum until satisfaction made as aforesaid.

28. Montana, MT

MT ST 25-9-205 Amount of interest

(1) Except as provided in subsection (2), interest is payable on judgments recovered in the courts of this state and on the cost incurred to obtain or enforce a judgment at the rate of 10% per year. The interest may not be compounded.

(2) Interest on a judgment recovered in the courts of this state involving a contractual obligation that specifies an interest rate must be paid at the rate specified in the contractual obligation.

29. Nebraska, NE (Interest; judgments; decrees; rate; exceptions)

Neb.Rev.St. § 45-103

For decrees and judgments rendered before July 20, 2002, interest on decrees and judgments for the payment of money shall be fixed at a rate equal to one percentage point above the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States Treasury bills in effect on the date of entry of the judgment. For decrees and judgments rendered on and after July 20, 2002, interest on decrees and judgments for the payment of money shall be fixed at a rate equal to two percentage points above the bond investment yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the first auction of each annual quarter of the twenty-six-week United States Treasury bills in effect on the date of entry of the judgment. The State Court Administrator shall distribute notice of such rate and any changes to it to all Nebraska judges to be in effect two weeks after the date the auction price is published by the Secretary of the Treasury of the United States. This interest rate shall not apply to:

(1) An action in which the interest rate is specifically provided by law; or

(2) An action founded upon an oral or written contract in which the parties have agreed to a rate of interest other than that specified in this section.

30. Nevada, NV (Computation of amount of judgment; interest)

NV ST 17.130

1. In all judgments and decrees, rendered by any court of justice, for any debt, damages or costs, and in all executions issued thereon, the amount must be computed, as near as may be, in dollars and cents, rejecting smaller fractions, and no judgment, or other proceedings, may be considered erroneous for that omission.

2. When no rate of interest is provided by contract or otherwise by law, or specified in the judgment, the judgment draws interest from the time of service of the summons and complaint until satisfied, except for any amount representing future damages, which draws interest only from the time of the entry of the judgment until satisfied, at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

31. New Hampshire, NH

NH ST § 336:1 (Rate of Interest.)

II. The annual simple rate of interest on judgments, including prejudgment interest, shall be a rate determined by the state treasurer as the prevailing discount rate of interest on 26-week United States Treasury bills at the last auction thereof preceding the last day of September in each year, plus 2 percentage points, rounded to the nearest tenth of a percentage point. On or before the first day of December in each year, the state treasurer shall determine the rate and transmit it to the director of the administrative office of the courts. As established, the rate shall be in effect beginning the first day of the following January through the last day of December in each year.

32. New Mexico, NM

NM ST § 56-8-4 (Judgments and decrees; basis of computing interest).

A. Interest shall be allowed on judgments and decrees for the payment of money from entry and shall be calculated at the rate of eight and three-fourths percent per year, unless:

(1) the judgment is rendered on a written instrument having a different rate of interest, in which case interest shall be computed at a rate no higher than specified in the instrument; or

(2) the judgment is based on tortious conduct, bad faith or intentional or willful acts, in which case interest shall be computed at the rate of fifteen percent.

B. Unless the judgment is based on unpaid child support, the court in its discretion may allow interest of up to ten percent from the date the complaint is served upon the defendant after considering, among other things:

(1) if the plaintiff was the cause of unreasonable delay in the adjudication of the plaintiff's claims; and

(2) if the defendant had previously made a reasonable and timely offer of settlement to the plaintiff.

C. Nothing contained in this section shall affect the award of interest or the time from which interest is computed as otherwise permitted by statute or common law.

D. The state and its political subdivisions are exempt from the provisions of this section except as otherwise provided by statute or common law.

33. New York, NY

CPLR § 5004 Rate of interest

Interest shall be at the rate of nine per centum per annum, except where otherwise provided by statute.

34. North Carolina, NC

N.C.G.S.A. § 40A-53 (Interest as a part of just compensation)

To the amount awarded as compensation by the commissioners or a jury or judge, the judge shall add interest at the rate of six percent (6%) per annum on said amount from the date of taking to the date of judgment. Interest shall not be allowed from the date of deposit on so much thereof as shall have been paid into court as provided in this Article

35. North Dakota, ND

ND ST 28-20-34 Interest rate on judgments

Interest is payable on judgments entered in the courts of this state at the same rate as is provided in the original instrument upon which the action resulting in the judgment is based, which rate may not exceed the maximum rate provided in section 47-14-09. If such original instrument contains no provision as to an interest rate, or if the action resulting in the judgment was not based upon an instrument, interest is payable at the rate of twelve percent per annum through December 31, 2005. Beginning January 1, 2006, the interest is payable at a rate equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus three percentage points rounded up to the next one-half percentage point and may not be compounded in any manner or form. On or before the twentieth day of December each year, the state court administrator shall determine the rate and shall transmit notice of that rate to all clerks of court and to the state bar association of North Dakota. As established, the rate shall be in effect beginning the first day of the following January through the last day of December in each year. Except as otherwise provided in this section, interest on all judgments entered in the courts of this

state before January 1, 2006, must remain at the rate per annum which was legally prescribed at the time the judgments were entered, and such interest may not be compounded in any manner or form. Interest on unpaid child support obligations must be calculated under section 14-09-25 according to the rate currently in effect under this section regardless of the date the obligations first became due and unpaid.

36. Ohio,OH
-------------

R.C. § 5703.47 (Interest calculated at federal short-term rate; notice to county auditor)

A) As used in this section, “federal short-term rate” means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current year.

(B) On the fifteenth day of October of each year, the tax commissioner shall determine the federal short-term rate. For purposes of any section of the Revised Code requiring interest to be computed at the rate per annum required by this section, the rate determined by the commissioner under this section, rounded to the nearest whole number per cent, plus three per cent, shall be the interest rate per annum used in making the computation for interest that accrues during the following calendar year. For the purposes of sections 5719.041 and 5731.23 of the Revised Code, references to the “federal short-term rate” are references to the federal short-term rate as determined by the tax commissioner under this section rounded to the nearest whole number per cent.

(C) Within ten days after the interest rate per annum is determined under this section, the tax commissioner shall notify the auditor of each county of that rate of interest.

OH ST § 1343.03 (Rate of interest on contracts, book accounts and judgments; commencement of interest on judgments)

(A) In cases other than those provided for in sections 1343.01 and 1343.02 of the Revised Code, when money becomes due and payable upon any bond, bill, note, or other instrument of writing, upon any book account, upon any settlement between parties, upon all verbal contracts entered into, and upon all judgments, decrees, and orders of any judicial tribunal for the payment of money arising out of tortious conduct or a contract or other transaction, the creditor is entitled to interest at the rate per annum determined pursuant to section 5703.47 of the Revised Code, unless a written contract provides a different rate of interest in relation to the money that becomes due and payable, in which case the creditor is entitled to interest at the rate provided in that contract. Notification of the interest rate per annum shall be provided pursuant to sections 319.19, 1901.313, 1907.202, 2303.25, and 5703.47 of the Revised Code.

(B) Except as provided in divisions (C) and (D) of this section and subject to section 2325.18 of the Revised Code, interest on a judgment, decree, or order for the payment of money rendered in a civil action based on tortious conduct or a contract or other transaction, including, but not limited to a civil action based on tortious conduct or a contract or other transaction that has been settled by agreement of the parties, shall be computed from the date the judgment, decree, or order is rendered to the date on which the money is paid and shall be at the rate determined pursuant to section 5703.47 of the Revised Code that is in effect on the date the judgment, decree, or order is rendered. That rate shall remain in effect until the judgment, decree, or order is satisfied.

(C)(1) If, upon motion of any party to a civil action that is based on tortious conduct, that has not been settled by agreement of the parties, and in which the court has rendered a judgment, decree, or order for the payment of money, the court determines at a hearing held subsequent to the verdict or decision in the action that the party required to pay the money failed to make a good faith effort to settle the case and that the party to whom the money is to be paid did not fail to make a good faith effort to settle the case, interest on the judgment, decree, or order shall be computed as follows:

(a) In an action in which the party required to pay the money has admitted liability in a pleading, from the date the cause of action accrued to the date on which the order, judgment, or decree was rendered;

(b) In an action in which the party required to pay the money engaged in the conduct resulting in liability with the deliberate purpose of causing harm to the party to whom the money is to be paid, from the date the cause of action accrued to the date on which the order, judgment, or decree was rendered;

(c) In all other actions, for the longer of the following periods:

(i) From the date on which the party to whom the money is to be paid gave the first notice described in division (C)(1)(c)(i) of this section to the date on which the judgment, order, or decree was rendered. The period described in division (C)(1)(c)(i) of this section shall apply only if the party to whom the money is to be paid made a reasonable attempt to determine if the party required to pay had insurance coverage for liability for the tortious conduct and gave to the party required to pay and to any identified insurer, as nearly simultaneously as practicable, written notice in person or by certified mail that the cause of action had accrued.

(ii) From the date on which the party to whom the money is to be paid filed the pleading on which the judgment, decree, or order was based to the date on which the judgment, decree, or order was rendered.

(2) No court shall award interest under division (C)(1) of this section on future damages, as defined in section 2323.56 of the Revised Code, that are found by the trier of fact.

(D) Division (B) of this section does not apply to a judgment, decree, or order rendered in a civil action based on tortious conduct or a contract or other transaction, and division (C) of this section does not apply to a judgment, decree, or order rendered in a civil action based on tortious conduct, if a different period for computing interest on it is specified by law, or if it is rendered in an action against the state in the court of claims, or in an action under Chapter 4123. of the Revised Code.

37. Oklahoma,OK

OK ST T. 12 § 727.1 (Interest on judgments rendered on or after January 1, 2005)

I. For purposes of computing postjudgment interest as authorized by this section, interest shall be the prime rate, as listed in the first edition of the Wall Street Journal published for each calendar year and as certified to the Administrative Director of the Courts by the State Treasurer on the first regular business day following publication in January of each year, plus two percent (2%). For purposes of computing prejudgment interest as authorized by this section, interest shall be determined using a rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified to the Administrative Director of the Courts by the State Treasurer on the first regular business day in January of each year.

38. Oregon,OR

OR ST § 82.010 (Rate of interest, violation)

1) The rate of interest for the following transactions, if the parties have not otherwise agreed to a rate of interest, is nine percent per annum and is payable on:

(a) All moneys after they become due; but open accounts bear interest from the date of the last item thereof.

(b) Money received to the use of another and retained beyond a reasonable time without the owner's express or implied consent.

(c) Money due or to become due where there is a contract to pay interest and no rate specified.

(2) Except as provided in this subsection, the rate of interest on judgments for the payment of money is nine percent per annum. The following apply as described:

(a) Interest on a judgment under this subsection accrues from the date of the entry of the judgment unless the judgment specifies another date.

(b) Interest on a judgment under this subsection is simple interest, unless otherwise provided by contract.

(c) Interest accruing from the date of the entry of a judgment shall also accrue on interest that accrued before the date of entry of a judgment.

(d) Interest under this subsection shall also accrue on attorney fees and costs entered as part of the judgment.

(e) A judgment on a contract bearing more than nine percent interest shall bear interest at the same rate provided in the contract as of the date of entry of the judgment.

(f) The rate of interest on a judgment rendered in favor of a plaintiff in a civil action to recover damages for injuries resulting from the professional negligence of a person licensed by the Oregon Medical Board under ORS chapter 677 or the Oregon State Board of Nursing under ORS 678.010 to 678.410 is the lesser of five percent per annum or three percent in excess of the discount rate in effect at the Federal Reserve Bank in the Federal Reserve district where the injuries occurred.

(3) Except as provided in ORS 82.025, no person shall:

(a) Make a business or agricultural loan of \$50,000 or less at an annual rate of interest exceeding the greater of 12 percent, or five percent in excess of the discount rate, including any surcharge on the discount rate, on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district where the person making the loan is located, on the date the loan or the initial advance of funds under the loan is made; or

(b) Make a loan of \$50,000 or less, except a loan made under paragraph (a) of this subsection, at an annual rate of interest exceeding the greater of 12 percent, or five percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district where the person making the loan is located, on the date the loan or the initial advance of funds under the loan is made.

(4) Any person who violates subsection (3) of this section shall forfeit the right to collect or receive any interest upon any loan for which a greater rate of interest or consideration than is permitted by subsection (3) of this section has been charged, contracted for or received. The borrower upon such loan shall be required to repay only the principal amount borrowed.

41 P.S. § 202 (Legal rate of interest)

Reference in any law or document enacted or executed heretofore or hereafter to “legal rate of interest” and reference in any document to an obligation to pay a sum of money “with interest” without specification of the applicable rate shall be construed to refer to the rate of interest of six per cent per annum.

40. Rhode Island,RI

RI ST § 9-21-8 (Interest on judgment for money)

Every judgment for money shall draw interest at the rate of twelve per cent (12%) per annum to the time of its discharge.

41. South Carolina,SC

SC ST § 34-31-20 (Legal rate of interest.)

(A) In all cases of accounts stated and in all cases wherein any sum or sums of money shall be ascertained and, being due, shall draw interest according to law, the legal interest shall be at the rate of eight and three-fourths percent per annum.

(B) A money decree or judgment of a court enrolled or entered must draw interest according to law. The legal rate of interest is equal to the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year for which the damages are awarded, plus four percentage points, compounded annually. The South Carolina Supreme Court shall issue an order by January 15 of each year confirming the annual prime rate. This section applies to all judgments entered on or after July 1, 2005. For judgments entered between July 1, 2005, and January 14, 2006, the legal rate of interest shall be the first prime rate as published in the first edition of the Wall Street Journal after January 1, 2005, plus four percentage points.

42. South Dakota,SD

SDCL § 54-3-5.1 (Interest on judgments, statutory liens and inverse condemnations)

Interest is payable on all judgments and statutory liens, exclusive of real estate mortgages and security agreements under Title 57A, and exclusive of support debts or judgments under § 25-7A-14, at the Category B rate of interest as established in § 54-3-16 from and after the date of judgment and date of filing statutory lien. On all judgments arising from inverse condemnation actions, interest is payable at the Category A rate of interest as established by § 54-3-16.

SDCL § 54-3-16 (Official state interest rates)

The official state interest rates, as referenced throughout the South Dakota Codified Laws, are as follows:

- (1) Category A rate of interest is four and one-half percent per year;
- (2) Category B rate of interest is ten percent per year;
- (3) Category C rate of interest is twelve percent per year;
- (4) Category D rate of interest is one percent per month or fraction thereof;
- (5) Category E rate of interest is four percent per year;
- (6) Category F rate of interest is fifteen percent per year; and
- (7) Category G rate of interest is five-sixth percent per month or fraction thereof.

43. Tennessee, TN
-------------------

TN ST § 47-14-121 (Interest on judgments and decrees)

(a) Except as set forth in subsection (c), the interest rate on judgments per annum in all courts, including decrees, shall:

(1) For any judgment entered between July 1 and December 31, be equal to two percent (2%) less than the formula rate per annum published by the commissioner of financial institutions, as required by § 47-14-105, for June of the same year; or

(2) For any judgment entered between January 1 and June 30, be equal to two percent (2%) less than the formula rate per annum published by the commissioner of financial institutions, as required by § 47-14-105, for December of the prior year.

(b) To assist parties and the courts in determining and applying the interest rate on judgments set forth in subsection (a) for the six-month period in which a judgment is entered, before or at the beginning of each six-month period the administrative office of the courts:

(1) Shall calculate the interest rate on judgments that shall apply for the new six-month period pursuant to subsection (a);

(2) Shall publish that rate on the administrative office of the courts' website; and

(3) Shall maintain and publish on that website the judgment interest rates for each prior six-month period going back to the rate in effect for the six-month period beginning July 1, 2012.

(c) Notwithstanding subsection (a) or (b), where a judgment is based on a statute, note, contract, or other writing that fixes a rate of interest within the limits provided in § 47-14-103 for particular categories of creditors, lenders or transactions, the judgment shall bear interest at the rate so fixed.

T. C. A. § 47-14-105 (Formula rates)

(a) Upon the publication by the board of governors of the Federal Reserve System of the average prime loan rate, as described in § 47-14-102, the commissioner of financial institutions shall:

- (1) Promptly make an official announcement of the formula rate;
- (2) Cause the dissemination of such announcement to the news media in such manner as the commissioner deems appropriate; and
- (3) Cause to be published in the Tennessee Administrative Register the formula rate as determined by the average prime loan rate first published during each calendar month.

(b) In contracting for interest pursuant to the provisions of § 47-14-103(2), any person shall be entitled to rely upon the formula rate thus announced or published by the commissioner; provided, that a formula rate shall not be deemed to have been published until seven (7) days have elapsed following the publication date stated in the issue of the Tennessee Administrative Register containing the announcement of such formula rate.

(c) The determination by the commissioner as provided for herein, for the sole purpose of an announcement under this section, shall not be deemed a “rule” within the meaning of § 4-5-102 and such action of the commissioner shall be exempt from the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

44. Texas, TX
---------------

V.T.C.A., Finance Code § 304.002 (Judgment Interest Rate: Interest Rate or Time Price Differential in Contract)

A money judgment of a court of this state on a contract that provides for interest or time price differential earns postjudgment interest at a rate equal to the lesser of:

- (1) the rate specified in the contract, which may be a variable rate; or
- (2) 18 percent a year.

V.T.C.A., Finance Code § 304.003 (Judgment Interest Rate: Interest Rate or Time Price Differential Not in Contract)

(a) A money judgment of a court of this state to which Section 304.002 does not apply, including court costs awarded in the judgment and prejudgment interest, if any, earns postjudgment interest at the rate determined under this section.

(b) On the 15th day of each month, the consumer credit commissioner shall determine the postjudgment interest rate to be applied to a money judgment rendered during the succeeding calendar month.

(c) The postjudgment interest rate is:

(1) the prime rate as published by the Board of Governors of the Federal Reserve System on the date of computation;

(2) five percent a year if the prime rate as published by the Board of Governors of the Federal Reserve System described by Subdivision (1) is less than five percent; or

(3) 15 percent a year if the prime rate as published by the Board of Governors of the Federal Reserve System described by Subdivision (1) is more than 15 percent.

45. Utah, UT
--------------

U.C.A. 1953 § 15-1-4 (Interest on judgments)

(1) As used in this section, “federal postjudgment interest rate” means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

(2)(a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful contract shall conform to the contract and shall bear the interest agreed upon by the parties, which shall be specified in the judgment.

(b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate imposed under Subsection (3) on an amount not exceeding the sum of:

(i) the total of the principal balance of the deferred deposit loan;

(ii) interest at the rate imposed by the deferred deposit loan agreement for a period not exceeding 10 weeks as provided in Subsection 7-23-401(4);

(iii) costs;

(iv) attorney fees; and

(v) other amounts allowed by law and ordered by the court.

(3)(a) Except as otherwise provided by law, other civil and criminal judgments of the district court and justice court shall bear interest at the federal postjudgment interest rate as of January 1 of each year, plus 2%.

(b) The postjudgment interest rate in effect at the time of the judgment shall remain the interest rate for the duration of the judgment.

(c) The interest on criminal judgments shall be calculated on the total amount of the judgment.

(d) Interest paid on state revenue shall be deposited in accordance with Section 63A-3-505.

(e) Interest paid on revenue to a county or municipality shall be paid to the general fund of the county or municipality.

46. Vermont,VT

VT ST T. 12 § 2903 (Duration and effectiveness)

(c) Interest on a judgment lien shall accrue at the rate of 12 percent per annum.

47. Virginia,VA

VA ST § 6.1-330.54 (Judgment rate of interest)

A. The judgment rate of interest shall be an annual rate of six percent, except that a money judgment entered in an action arising from a contract shall carry interest at the rate lawfully charged on such contract, or at six percent annually, whichever is higher.

B. If the contract or other instrument does not fix an interest rate, the court shall apply the judgment rate of six percent to calculate prejudgment interest pursuant to § 8.01-382 and to calculate post-judgment interest.

C. The rate of interest for a judgment shall be the judgment rate of interest in effect at the time of entry of the judgment on any amounts for which judgment is entered and shall not be affected by any subsequent changes to the rate of interest stated in this section.

48. Washington,WA

RCWA 4.56.110 (Interest on judgments)

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3)(a) Judgments founded on the tortious conduct of a “public agency” as defined in RCW 42.30.020 shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(b) Except as provided in (a) of this subsection, judgments founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(4) Except as provided under subsections (1), (2), and (3) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the “rate applicable to civil judgments” for purposes of RCW 10.82.090.

49. West Virginia, WV
-----------------------

WV ST § 56-6-31 (Interest on judgment or decree)

(a) Except where it is otherwise provided by law, every judgment or decree for the payment of money, whether in an action sounding in tort, contract or otherwise, entered by any court of this state shall bear interest from the date thereof, whether it be so stated in the judgment or decree or not: Provided, That if the judgment or decree, or any part thereof, is for special damages, as defined below, or for liquidated damages, the amount of special or liquidated damages shall bear interest at the rate in effect for the calendar year in which the right to bring the same shall have accrued, as determined by the court and that established rate shall remain constant from that date until the date of the judgment or decree, notwithstanding changes in the federal reserve district discount rate in effect in subsequent years prior to the date of the judgment or decree. Special damages includes lost wages and income, medical expenses, damages to tangible personal property and similar out-of-pocket expenditures, as determined by the court. If an obligation is based upon a written agreement, the obligation shall bear a prejudgment interest at the rate set forth in the written agreement until the date the judgment or decree is entered and, thereafter, the judgment interest rate shall be the same rate as provided for in this section.

(b) Notwithstanding the provisions of section five, article six, chapter forty-seven of this code, the rate of interest on judgments and decrees for the payment of money, including prejudgment interest, is three percentage points above the Fifth Federal Reserve District secondary discount rate in effect on the second day of January of the year in which the judgment or decree is entered: Provided, That the rate of prejudgment and post-judgment interest shall not exceed eleven percent per annum or be less than seven percent per annum. The administrative office of the Supreme Court of Appeals shall annually determine the interest rate to be paid upon judgments or decrees for the payment of money and shall take appropriate measures to promptly notify the courts and members of the West Virginia State Bar of the rate of interest in effect for the calendar year in question. Once the rate of interest is established by a judgment or decree as provided in this section, that established rate shall thereafter remain constant for that particular judgment or decree, notwithstanding changes in the Federal Reserve District discount rate in effect in subsequent years.

(c) Amendments to this section enacted by the Legislature during the year two thousand six regular session shall become effective the first day of January, two thousand seven.

50. Wisconsin, WI
-------------------

Wis. Stat. § 815.05(8) (Execution, how issued; contents)

(8) Except as provided in s. 807.01(4), every execution upon a judgment for the recovery of money shall direct the collection of interest at an annual rate equal to 1 percent plus the prime rate in effect on January 1 of the year in which the judgment is entered if the

judgment is entered on or before June 30 of that year or in effect on July 1 of the year in which the judgment is entered if the judgment is entered after June 30 of that year, as reported by the federal reserve board in federal reserve statistical release H. 15, on the amount recovered from the date of the entry of the judgment until it is paid.

51. Wyoming, WY
-----------------

WY ST § 1-16-102 (Interest on judgments)

(a) Except as provided in subsections (b) and (c) of this section, all decrees and judgments for the payment of money shall bear interest at ten percent (10%) per year from the date of rendition until paid.

(b) If the decree or judgment is founded on a contract and all parties to the contract agreed to interest at a certain rate, the rate of interest on the decree or judgment shall correspond to the terms of the contract.

(c) A periodic payment or installment for child support or maintenance which is unpaid on the date due and which on or after July 1, 1990, becomes a judgment by operation of law pursuant to W.S. 14-2-204 shall not bear interest.

2014 Report of the Supreme  
Court Committee on Special  
Civil Part Practice

January 2, 2014

Appendix – B

N.J. Creditors Bar Association Response  
to Supplemental Report of the  
Joint Subcommittee on Post Judgment Interest  
November 12, 2013

**THE NEW JERSEY CREDITORS BAR ASSOCIATION**

PO Box 5873  
Parsippany, N.J. 07054  
Off: (973) 753-5100  
Fax: (973) 753-5353

OFFICERS

Sheldon H. Pressler, President

Harry Frieland, Treasurer

TRUSTEES

Richard Eichenbaum

Harry Frieland

Sheldon H. Pressler

Art Raimon

Philip A. Kahn

Thomas Melsenbacher

Marc Bressler

Stanton Freeman

November 12, 2011

Mr. Robert D. Pitt, Esq.  
Administrative Office of the Court  
P.O. Box 037  
Trenton, NJ 08625-0037

Re: Revision to Rule 4:42-11 (a)

Dear Bob:

Enclosed is the position paper on behalf of the New Jersey Creditors Bar Association with regard to a proposed revision to Rule 4:42-11(a). Please present same to the members of the Civil Practice and Special Civil Part Practice Rules Committees.

Very truly yours,



Arthur J. Raimon

Civil Practice Division

NOV 13 2013

RECEIVED

STATEMENT ON THE SUPPLMENTAL REPORT OF THE  
JOINT COMMITTEE ON POST JUDGMENT INTEREST

This statement is being presented to Supreme Court Committees on Civil Practice and Special Civil Part Practice in support of a revision to Rule 4:42-11 (a) (ii) regarding the method of calculating both pre and post judgment interest rate. The current rule now in existence proves that the method of calculating the interest rate must be changed because such method would end up with a zero percent base rate.

The purpose of pre-judgment interest is to compensate the harmed party, usually the plaintiff in a law suit, for the loss of the use of the money not paid by the defendant. Meier v. New Jersey Life Ins. Co. 195 N.J. Super. 478, 388 (App. Div. 1984) aff'd. 101 N.J. 597, 622 (1986). The same holds true for post-judgment interest. How are plaintiffs in cases where the award is less than \$15,000.00 to be compensated for the loss of the use of the money owed when the base interest rate is zero? Without an interest rate on judgments, there will be no incentive to pay a debt. To have a zero percent rate is tantamount to giving judgment debtors an interest free loan.

The fact that the New Jersey Cash Management Fund is receiving little or no interest on deposits in State Accounts should not be the methodology used to calculate pre and post judgment. This is especially true for businesses seeking to collect uncollected debts when those businesses have loans on which they have to pay interest to the lender. The current prime rate is 3.25% and the current discount rate is .075%. Businesses with outstanding loans or lines of credit usually pay a certain percentage over prime and thus would losing more money than they are now on uncollected debts should the zero percent rate become effective.

As stated above, a low or nonexistence rate is a disincentive to payment of a debt. As stated in the 1984 report of the Civil Practice Committee, “. . . the purpose of pre-judgment interest in tort cases is to encourage settlements. The rate must be sufficiently high to provide impetus to defendants, mostly insurance carriers to settle.” Further in the report it was stated “That purpose was identified as establishing a rate which would be

high enough to encourage judgment debtors to satisfy judgments against them while at the same time being low enough to compel judgment creditors to pursue their remedies of levy execution so that those judgments would be satisfied of record.”

A complete list of interest rates throughout the United States has been provided to the Committees. No jurisdiction has a rate of zero percent per year.

New Jersey’s interest rate should not be based upon what a party would receive on deposits in some form of savings account. It should have some relationship to what businesses creditors pay on its loans owed to lending institutions. In addition is the fact that when it is said that interest is awarded because the creditor has been denied the use of the money owed it does not mean that the creditor would be putting the money in a savings account. Businesses use their accounts receivable to pay their business expenses, such as salaries, rent, utilities, interest on loans and other overhead costs. And yes another expense is the distribution of profits to owners of the business.

As for tort plaintiffs, they have expenses to meet as well. Such expenses beyond the usual living expenses of food, shelter and clothing could include medical expenses not covered by their own insurance. It would also include interest on loans for home mortgages, motor vehicles and credit card debts not in default.

It has been claimed that a majority of judgment debtors are individuals who are at below the poverty line. First of all, no evidence has been produced to support such a claim and it is submitted that no such evidence exists. Secondly, it is irrelevant as the rate of interest to be assessed should not depend on whether or not a person or entity can pay the interest just like it is not a valid defense to a suit that a debtor cannot pay the debt.

With regard to the possibility that the rate received by the New Jersey Cash Management Fund would increase, there is no evidence to support such a proposition. Any review of interest rates on accounts shows that they are either going down or are stagnant. Creditors in New Jersey should not be required to rely on speculation to receive a recovery of interest on their judgments and claims.

The New Jersey Creditors Bar Association proposes that the interest rate pursuant to Rule 4:42-11 be calculated at the prime rate plus three percent (3%) to be calculated as of the 30<sup>th</sup> of June of each year effective the 2<sup>nd</sup> of January of the next year. This would allow businesses to be entitled to at least a portion of the interest that they pay to their lenders and would allow them recovery of funds in order to pay their business expenses and allow individuals to recover funds for their living expenses.

2014 Report of the Supreme  
Court Committee on Special  
Civil Part Practice

January 2, 2014

Appendix – C

Chattel and Wage Executions  
Amended November 6, 2013  
To Be Effective November 25, 2013

**APPENDIX XI-H EXECUTION AGAINST GOODS AND CHATTELS**

DOCKET NO.: \_\_\_\_ DC-\_\_\_\_-\_\_\_\_  
 JUDGMENT NO.: \_\_\_\_ VJ-\_\_\_\_-\_\_\_\_  
 WRIT NUMBER: \_\_\_\_ ISSUED \_\_\_\_  
 EXPIRATION DATE: \_\_\_\_\_  
 AMENDED: \_\_\_\_\_

SUPERIOR COURT OF NEW JERSEY  
 SPECIAL CIVIL PART  
 \_\_\_\_\_ COUNTY  
 STATE OF NEW JERSEY

**EXECUTION AGAINST GOODS AND CHATTELS**

\_\_\_\_\_  
 PLAINTIFF(S)

VS.

\_\_\_\_\_  
 DEFENDANT(S)

DEBTORS: \_\_\_\_\_  
 \_\_\_\_\_

ADDRESS OF FIRST DEBTOR:  
 STREET ADDRESS  
 CITY NJ ZIP

TO: \_\_\_\_\_  
 COURT OFFICER OF THE SPECIAL CIVIL PART

YOU ARE ORDERED to levy on the property of any of the debtors designated herein; your actions may include, but are not limited to, taking into possession any motor vehicle(s) owned by any of the debtors, taking possession of any inventory and/or machinery, cash, bank accounts, jewelry, electronic devices, fur coats, musical instruments, stock certificates, securities, notes, rents, accounts receivable, or any item(s) which may be sold pursuant to statute to satisfy this execution in full or in part. Any levy pursuant to this writ shall exclude (1) all funds in an account of the debtor with a bank or other financial institution, if all deposits into the account during the 90 days immediately prior to service of the writ were electronic deposits, made on a recurring basis, of funds identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law, and (2) all funds deposited electronically in an account of the debtor with a bank or other financial institution during two months immediately prior to the account review undertaken by the bank or other financial institution in response to the writ that are identifiable by the bank or other financial institution as exempt from execution, levy or attachment under New Jersey or federal law. All proceeds are to be paid to the court officer who shall pay them to the creditor or the attorney for the creditor, or, if this is not possible, to the court. This writ of execution shall EXPIRE on \_\_\_\_\_.

Local police departments are authorized and requested to provide assistance, if needed, to the officer executing this writ. This does not authorize entry to a residence by force unless specifically directed by court order.

Judgment Date	_____
Judgment Award .....	\$ _____
Court Costs & Statutory Atty. Fees .....	\$ _____
Total Judgment Amount .....	\$ _____
Interest From Prior Writs .....	\$ _____
Costs From Prior Writs .....	\$ _____
Subtotal A .....	\$ _____
Credits From Prior Writs .....	\$ _____
Subtotal B .....	\$ _____
New Miscellaneous Costs .....	\$ _____
New Interest On This Writ .....	\$ _____
New Credits On This Writ .....	\$ _____
Execution Fees & Mileage .....	\$ _____
Subtotal C .....	\$ _____
Court Officer Fee .....	\$ _____
Total Due This Date .....	\$ _____

\_\_\_\_\_  
 Judge

\_\_\_\_\_  
 Clerk of the Special Civil Part

I RETURN this execution to the Court  
 Unsatisfied \_\_\_\_\_  
 Satisfied       Partly Satisfied  
 Amount Collected. . . \_\_\_\_\_

Fee Deducted. . . . . \_\_\_\_\_  
 Amount Paid to Atty. \_\_\_\_\_

Date : \_\_\_\_\_  
 Property to be Levied  
 Upon and Location of Same:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 CITY \_\_\_\_\_ ST \_\_\_\_\_ ZIP \_\_\_\_\_

CREDITOR'S ATTORNEY AND ADDRESS:

Date: \_\_\_\_\_

\_\_\_\_\_  
 CITY \_\_\_\_\_ NJ ZIP \_\_\_\_\_  
 Telephone: \_\_\_\_-\_\_\_\_\_

\_\_\_\_\_  
 Court Officer

[Note: Adopted January 2, 1989; amended July 13, 1994, effective September 1, 1994; amended July 10, 1998 to be effective September 1, 1998; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004; amended July 23, 2010 to be effective September 1, 2010; amended May 17, 2011 to be effective immediately; amended November 6, 2013 to be effective November 25, 2013.]

**APPENDIX XI-J. WAGE EXECUTION**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, SPECIAL CIVIL PART

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

\_\_\_\_\_ County Tel. \_\_\_\_\_

Docket No.: \_\_\_\_\_

Judgment No.: \_\_\_\_\_

Writ Number : \_\_\_ Issued \_\_\_\_\_

Name and Address of Employer Ordered to Make Deductions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff

vs.

Designated Defendant  
(Address)

The employer is ordered to deduct from the earnings which the designated defendant receives and to pay over to the court officer named below, the lesser of the following: (a) 10% of the gross weekly pay; or (b) 25% of disposable earnings for that week; or (c) the amount, if any, by which the designated defendant's disposable weekly earnings exceed \$217.50 per week, until the total amount due has been deducted or the complete termination of employment. Upon either of these events, an immediate accounting is to be made to the court officer. Disposable earnings are defined as that portion of the earnings remaining after the deduction from gross earnings of any amounts required by law to be withheld. In the event the disposable earnings so defined are \$217.50 or less, no amount shall be withheld under this execution. In no event shall more than 10% of gross salary be withheld.

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

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

Date \_\_\_\_\_

\_\_\_\_\_  
Judge

Jane B. Doe  
Clerk of the Special Civil Part

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

\_\_\_\_\_  
Court Officer

Plaintiff's Attorney and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I RETURN this execution to the Court  
( ) Unsatisfied ( ) Satisfied ( ) Partly Satisfied  
Amount Collected .....\$ \_\_\_\_\_  
Fee Deducted .....\$ \_\_\_\_\_  
Amount Due to Atty .....\$ \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Court Officer

## HOW TO CALCULATE PROPER GARNISHMENT AMOUNT

- (1) Gross Salary per pay period ..... \_\_\_\_\_
- (2) Less:
- Amounts Required by Law to be Withheld:
- (a) U.S. Income Tax ..... \_\_\_\_\_
- (b) FICA (social security) ..... \_\_\_\_\_
- (c) State Income Tax, ETT, etc..... \_\_\_\_\_
- (d) N.J. SUI ..... \_\_\_\_\_
- (e) Other State or Municipal Withholding..... \_\_\_\_\_
- (f) TOTAL ..... \_\_\_\_\_ - \_\_\_\_\_
- (3) Equals "disposable earnings" ..... = \_\_\_\_\_
- (4) If salary is paid:
- weekly, then subtract \$217.50
- every two weeks, then subtract \$435.00
- twice per month, then subtract \$471.25
- monthly, then subtract \$942.50
- (Federal law prohibits any garnishment when "disposable earnings" are smaller than the amount on line 4) ..... - \_\_\_\_\_
- (5) Equals the amount potentially subject to garnishment (if less than zero, enter zero) ..... = \_\_\_\_\_
- (6) Take "disposable earnings" (Line 3) and multiply by .25:  
 $\$ \underline{\hspace{1cm}} \times .25 = \$ \underline{\hspace{1cm}}$  ..... \_\_\_\_\_
- (7) Take the gross salary (Line 1) and multiply by .10:  
 $\$ \underline{\hspace{1cm}} \times .10 = \$ \underline{\hspace{1cm}}$  ..... \_\_\_\_\_
- (8) Compare lines 5, 6, and 7--the amount which may lawfully be deducted is the smallest amount on line 5, line 6, or line 7, i.e.,  
 ..... \_\_\_\_\_

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

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