

## **RULE 4:74. Special Proceedings In The Superior Court, Law Division**

### **4:74-1. Workmen's Compensation Appeals [Deleted]**

Note: Source-R.R. 5:2-5(a) (b) (c) (d) (f). Deleted July 14, 1972 to be effective September 5, 1972 (see R. 2:3-5).

### **4:74-2. General Provisions or Appeal to Superior Court, Law Division**

- **(a) Applicability.** This rule applies to appeals from a judgment of the municipal court taken pursuant to R. 4:74-3 (imposition of penalties), R. 4:74-4 (confiscation or forfeiture of chattels), and R. 4:74-5 (judgments in civil actions).
- **(b) Time for Appeal; Enlargement.** Appeals to which this rule is applicable shall be taken by filing the notice of appeal as prescribed in said rules within 10 days after the entry of the judgment appealed from. The Law Division of the Superior Court in the county of venue, upon a showing of good cause and the absence of prejudice, may extend the time for a period not exceeding 20 days, but only if the notice of appeal was in fact served and filed within the time as extended.
- **(c) Interlocutory Appeals.** If the final judgment of a lower court is appealable, an application may be made by an aggrieved party to the Law Division of the Superior Court in the county of venue for leave to appeal an interlocutory order of such lower court within the time and in the manner prescribed by R. 3:24, insofar as applicable. The term "prosecuting attorney" used by R. 3:24 shall, for purposes of this rule, be deemed to mean the respondent or respondent's attorney, if any.

Note: Source-R.R. 1:3-1(c), 1:27B(d). Caption and paragraphs (a), (b) and (c) amended November 22, 1978 to be effective December 7, 1978; paragraphs (b) and (c) amended July 11, 1979 to be effective September 10, 1979; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraph (c) amended July 13, 1994 to be effective September 1, 1994.

### **4:74-3. Appeals From Penalties Imposed by Municipal Courts**

- **(a) Notice of Appeal; Bond or Deposit.** A party appealing from a judgment of a municipal court imposing a penalty shall file a notice of appeal with the clerk of the municipal court describing the judgment, stating that an appeal is being taken therefrom to the Law Division of the Superior Court in the county of venue and stating whether or not a verbatim record was made in the municipal court. A copy of the notice of appeal shall be served upon the opposing party, and a copy filed with the deputy clerk of the Superior Court in the county of venue. On appeal from a judgment imposing a penalty, appellant shall deliver to the municipal court a deposit in cash or a bond with at least one sufficient surety, in the amount of the judgment in full, together with interest and costs, or if the judgment imposes no money penalty or imposes imprisonment with a money penalty, then in such sum as the court fixes, conditioned upon the prosecution of the appeal and compliance with such further order or judgment as may be entered. If the bond is forfeited, it may be prosecuted by the obligee, and if the obligee is the State, then by the State at the relation of the person authorized by law to prosecute the penalty proceeding. The appeal shall be deemed perfected upon service and filing of the notice of appeal and the delivery of the cash deposit or bond.
- **(b) Stay; Release.** On the taking of the appeal and the delivery of the deposit or bond, the court rendering the judgment appealed from shall forthwith order the release of the appellant, if committed or in custody, and thereafter no execution shall issue upon the judgment and the appeal shall operate as a stay of any execution theretofore issued thereon.
- **(c) Record.** The municipal court whose judgment is appealed from shall send a certified copy of the record and judgment in the action, together with the bond or deposit, if any,

to the deputy clerk of the Superior Court in the county of venue within 10 days after the appeal is perfected.

- **(d) Hearing Date.** Upon receipt of the municipal court record as provided for by paragraph (c) of this rule, the court shall fix a date for the hearing and mail written notice thereof to the parties.
- **(e) Hearing.** The Law Division of the Superior Court in the county of venue shall hear and determine the appeal in the manner provided by R. 3:23-8(a) insofar as practicable.
- **(f) Waiver of Defects.** The appeal operates as a waiver of all defects in, or the absence of, any process, or as to any matter alleged in the complaint, as in civil actions generally.
- **(g) Proceedings on Judgment.** Any judgment entered upon the appeal may be proceeded upon in the same manner as though the original proceedings had been instituted in the Superior Court, Law Division, and if judgment shall be entered in favor of the appellant, appellant's cash deposit, if any, shall be returned and any bond given shall be cancelled.

Note: Source - R.R. 5:2-6(b). Paragraphs (a) and (d) amended July 7, 1971 to be effective September 13, 1971; paragraphs (a)(c)(e) and (g) amended November 22, 1978 to be effective December 7, 1978; paragraphs (a) (c) and (e) amended July 11, 1979 to be effective September 10, 1979; paragraphs (a) (b) and (g) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) (c) and (d) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

#### **4:74-4. Appeal From Judgment of a Municipal Court for Confiscation or Forfeiture of a Chattel**

Appeals from proceedings in a municipal court for the confiscation or forfeiture of a chattel shall be taken to the Superior Court, Law Division, insofar as practicable, in accordance with R. 4:74-3.

Note: Source -- R.R. 5:2-6(c) (second sentence). Amended November 22, 1978 to be effective December 7, 1978; amended July 28, 2004 to be effective September 1, 2004.

#### **4:74-5. Appeals From Municipal Court Judgments in Civil Actions**

Appeals from judgments of a municipal court in a civil action shall be taken, unless otherwise provided by rule and insofar as practicable, in accordance with R. 4:74-3.

Note: Source-R.R. 5:2-6(d).

#### **4:74-6. Appeals in Bastardy Proceedings [Deleted]**

[Deleted effective September 12, 1983.]

#### **4:74-7. Civil Commitment - Adults**

- **(a) Applicability; Definitions. This** rule applies to the civil commitment of persons 18 years of age or older to inpatient or outpatient treatment, and the definitions contained in N.J.S.A. 30:4-27.2 apply.
- **(b) Commencement of Action.** An action for commitment to treatment shall be commenced either through a screening service referral or upon independent application for a temporary court order, except that an action for commitment to outpatient treatment may alternatively be commenced through the conversion procedure set forth in subparagraph (f)(3) of this Rule. All clinical and screening certificates shall be in the form prescribed by the Division of Mental Health and Addiction Services in the Department of Human Services subject to the approval of the Administrative Director of the Courts.

- **(1) Screening Service Referral.** A person who has been involuntarily admitted to a short-term care or psychiatric facility or special psychiatric hospital or assigned to an outpatient treatment provider on referral by a screening service may be detained by the facility or the hospital without court order for not more than 72 hours from the time the original screening certificate was executed. During that period the facility, the hospital or outpatient treatment provider may institute proceedings by filing with the court the original clinical certificate completed by a psychiatrist on the patient's treatment team, the original screening certificate executed by a psychiatrist or other physician affiliated with the screening service and, if commitment to outpatient treatment is recommended, an interim plan of outpatient treatment. If the screening was performed by means of telepsychiatry by a screening service having a Division of Mental Health and Addiction Services approved plan of telepsychiatry, the facility, hospital or outpatient treatment provider may file with the court a facsimile of the original screening certificate in lieu of the original. A copy of the certificates and interim plan of outpatient treatment, if required, shall be filed with the office of the county adjuster.
- **(2) Independent Applications.** If the screening service procedure is not employed, proceedings for involuntary commitment to treatment may be initiated by filing an application supported by two clinical certificates, at least one of which is prepared by a psychiatrist, stating that the person is in need of involuntary commitment to treatment. If an application for involuntary commitment to outpatient treatment is filed, an interim plan of outpatient treatment developed by an outpatient treatment program shall be filed in addition to the two clinical certificates. The originals shall be filed with the court and copies with the office of the county adjuster. If the application is made after a voluntary patient requests discharge from a facility or hospital, the patient may be detained for not more than 48 hours after the request or until the end of the next working day, whichever is later. If proceedings are instituted by independent application, there shall be no involuntary commitment to treatment prior to entry of a temporary commitment order by the court.
- **(3) Certificates for Adults.**
  - **(A) Contents.** If the patient is an adult, the certificates shall state with particularity the facts upon which the psychiatrist, physician or mental health screener relies in concluding that (1) the patient is mentally ill, (2) that mental illness causes the patient to be dangerous to self or others or property as defined by N.J.S.A. 30:4-27.2h and -.2i, (3) the patient is unwilling to accept appropriate treatment voluntarily after it has been offered, (4) the patient needs outpatient treatment or inpatient care at a short term care or psychiatric facility or special psychiatric hospital, and (5) other less restrictive alternative services are not appropriate or available to meet the person's mental health care needs. If inpatient treatment is recommended, the certificates shall indicate that the patient is immediately or imminently dangerous to self, others or property or outpatient treatment is inadequate to render the patient unlikely to be dangerous within the reasonably foreseeable future. If outpatient treatment is recommended, the certificates shall indicate that with a plan of outpatient treatment the patient will unlikely be dangerous to self, others or property within the reasonably foreseeable future.
  - **(B) Persons Disqualified.** A person who is a relative by blood or marriage of the person being examined shall not execute any certificate required by this rule. If the screening service referral procedure is used, the same psychiatrist shall not sign both the screening certificate and the clinical certificate unless that psychiatrist has made a reasonable but

unsuccessful attempt to have another psychiatrist conduct the evaluation and execute the certificate.

- **(c) Temporary Commitment.** The court may enter an order of temporary commitment to treatment authorizing the assignment of a person to an outpatient treatment provider or the admission to or retention of custody by a facility pending final hearing if it finds probable cause, based on the documents filed in accordance with paragraph (b) of this rule, to believe that the person is in need of involuntary commitment to treatment. The order of temporary commitment shall include the following terms:
  - **1.** A place and day certain for the commitment hearing, which shall be within 20 days from the initial commitment to treatment. The date shall not be subject to adjournment except that in exceptional circumstances and for good cause shown in open court and on the record the hearing may be adjourned for a period of not more than 14 days.
  - **2.** Assignment of counsel to present the case for involuntary commitment as required by statute.
  - **3.** Assignment of counsel to represent an unrepresented patient, whose fees shall be fixed by the court after hearing and paid pursuant to paragraph (i) of this rule.
  - **4.** The persons to be notified by the county adjuster of the admitting county of the time and place of hearing, the mode of service of the notice, and the time within which notice must be served. Notice shall be served not less than 10 days prior to the date of the hearing, nor shall any mode of service of the notice on the patient be permitted other than personal service. In addition to the patient, the patient's counsel, and the patient's guardian or guardian ad litem, if any, notice shall also be given to the county counsel, the nearest relatives of the patient, the county adjuster of the county in which the patient has legal settlement, and the director or chief executive officer of the inpatient facility or hospital or outpatient treatment provider. The court may order notice to be served on any other person. The form of notice served upon the patient and the patient's counsel or guardian ad litem shall include a copy of the temporary court order, a statement of the patient's rights at the hearing and the screening or clinical certificates and supporting documents.
- **(d) Discovery.** Any rule, regulation or policy of confidentiality notwithstanding, the patient's counsel or guardian ad litem shall have the right to inspect and copy all records relating to the patient's mental condition, including the patient's clinical chart. The court may also order testing or examination of the patient by an independent psychiatrist, psychologist or other expert. The cost of such examination and the expert's fee for testifying, if any, shall be borne by the person or public body charged with the patient's legal settlement.
- **(e) Hearing.** No final order of commitment to treatment shall be entered except upon hearing conducted in accordance with the provisions of these rules. The application for commitment to treatment shall be supported by the oral testimony of a psychiatrist on the patient's treatment team who has conducted a personal examination of the patient as close to the court hearing date as possible, but in no event more than five calendar days prior to the court hearing. If a licensed psychologist has examined the patient, the court may also require the psychologist to appear and testify in the matter. Any expert witness who is to testify shall prepare a written report and shall make it available to the court and all counsel no later than one business day prior to the hearing. The report shall be in a form prescribed by the Department of Human Services and subject to approval by the Administrative Director of the Courts, and designed to minimize the burden on hospital or outpatient treatment provider administrative and clinical resources while still accomplishing its objective. Other members of the patient's treatment team may also testify at the hearing, as may the patient's next-of-kin if the court so determines. The patient shall have the right to appear at the hearing, but may be excused from the courtroom during all or any portion thereof if the court determines that because of the patient's conduct at the hearing it cannot reasonably continue while the patient is

present. In no case shall the patient appear pro se. The patient, through counsel, shall have the right to present evidence and to cross-examine witnesses. The hearing shall be held in camera, except as otherwise provided by R. 3:19-2 (acquittal by reason of insanity).

▪ **(f) Final Order of Commitment, Review.**

- **(1) Entry of Order.** The court shall enter an order authorizing involuntary commitment if it finds, by clear and convincing evidence presented at the hearing that the patient is in need of continued involuntary commitment by reason of the fact that (1) the patient is mentally ill, (2) mental illness causes the patient to be dangerous to self or dangerous to others or property as defined in N.J.S.A. 30:4-27.2h and -.2i, (3) the patient is unwilling to be admitted to a facility for voluntary care, and (4) the patient needs care at a short-term care or psychiatric facility or special psychiatric hospital because other services are not appropriate or available to meet the patient's mental health care needs.
- **(2) Review.** The order shall provide for periodic reviews of the commitment no later than (i) three months from the date of the first hearing, and (ii) nine months from the date of the first hearing, and (iii) 12 months from the date of the first hearing, and (iv) at least annually thereafter, if the patient is not sooner discharged. The court may schedule additional review hearings but, except in extraordinary circumstances, not more than once every 30 days. If the court determines at a review hearing that involuntary commitment shall be continued, it shall execute a new order. All reviews shall be conducted in the manner required by paragraph (e) of this rule. When the advanced age of the patient or when the cause or nature of the mental illness renders it appropriate, and where it would be impractical to obtain the testimony of a psychiatrist as required in paragraph (e), the court may, in its discretion and with the consent of the patient, support its findings by the oral testimony of a physician on the patient's treatment team who has personally conducted an examination of the patient as close to the hearing date as possible, but in no event more than five days prior to the hearing date. A scheduled periodic review, as set forth above, shall not be stayed pending appeal of a prior determination under this rule.

▪ **(g) Conversion to Voluntary Status; Voluntary Admission Through a Screening Service.**

- **(1)** When a patient has been involuntarily committed to a short-term care facility, a psychiatric facility or a special psychiatric hospital, as defined in N.J.S.A. 30:4-27.2, and thereafter seeks to convert to voluntary status, the court shall hold a hearing within 20 days to determine whether the patient had the capacity to make an informed decision to convert to voluntary status and whether the decision was made knowingly and voluntarily. Counsel previously appointed shall represent the patient at that hearing and notice shall be given in accordance with paragraph (c)(4) of these rules. The patient shall attend the hearing unless the court is satisfied that the patient does not wish to attend.
- **(2)** When a patient has been evaluated by a screening service and thereafter admitted to a short-term care facility or a psychiatric facility as a voluntary patient and when no court order of temporary commitment has been entered, the court shall hold a hearing within 20 days to determine whether the patient had the capacity to make an informed decision to be admitted voluntarily and whether the decision was made knowingly and voluntarily. Counsel shall be appointed to represent the patient at this hearing and notice shall be given in accordance with paragraph (c)(4) of these rules, except that notice to the nearest relatives of the patient shall be given only as requested in writing by the patient. The form of notice served upon patients and their counsel or guardians ad litem shall include a statement of the patient's rights at the hearing and a copy of the screening documents. The patient shall attend the hearing unless the court is satisfied that the patient does not wish to attend.

▪ **(h) Discharge.**

- **(1) Order of Discharge.** If the court concludes at the review hearing that the evidence does not warrant continued commitment to treatment, it shall order that the patient be discharged. The facility or outpatient treatment provider shall discharge the patient as soon as practicable but no later than 48 hours after the court's verbal order or by the end of the next working day, whichever is later. An order discharging the patient may contain conditions for discharge provided the court finds that the patient's history indicates a high risk of repeated commitment because of the patient's failure to comply with discharge plans or a substantial likelihood that by reason of mental illness the patient will be dangerous to self, others or property if the patient does not receive other appropriate and available services that render involuntary commitment to treatment unnecessary. Conditions shall be recommended by the facility or outpatient treatment provider and mental health agency staff and developed with the participation of the patient, shall be specific, and shall not exceed 90 days in duration except as otherwise provided by law. The continuation of any such conditions shall be subject to periodic review as provided by paragraph (f) hereof.
- **(2) Order of Conditional Extension Pending Placement.** If a patient otherwise entitled to discharge from an inpatient facility cannot be immediately discharged due to the unavailability of an appropriate placement, the court shall enter an order conditionally extending the patient's hospitalization and scheduling a placement review hearing within 60 days thereafter. If the patient is not sooner discharged, a second placement review hearing shall be held no later than six months after the initial placement review hearing and subsequently at no greater than six-month intervals. At all placement review hearings the court shall inquire into and receive evidence of the patient's placement as is necessary to support the entry of an order conditionally extending the patient's hospitalization. At all placement review hearings, the hospital employee who has primary responsibility for placing the patient shall prepare a written report and shall make it available to the court and all counsel no later than one business day prior to the hearing. The report shall be in a form prescribed by the Department of Human Services and subject to approval by the Administrative Director of the Courts, and designed to minimize the burden on hospital administrative and clinical resources while still accomplishing its objective. If the court is advised at a hearing that an appropriate placement is available, it shall forthwith order such placement. If an appropriate placement becomes available during the interval between scheduled hearings, the patient may be administratively discharged to said placement.
- The patient shall have the right to counsel in all placement review proceedings. Notice of the date, time and place of all hearings shall be given the patient and patient's counsel no later than ten days prior to the hearing. The patient's counsel shall be entitled to inspect and copy all records relating to the patient's condition including the patient's clinical chart and all records relating to placement, to introduce evidence and to cross-examine adverse witnesses.
- **(3) Access to Appropriate Records for Placement.** Access to Appropriate Records for Placement. Whenever a person is or has been voluntarily admitted or involuntarily committed to treatment under N.J.S.A. Title 30, Article 4, and whose certificates, applications, records and reports, therefore, are controlled by N.J.S.A. 30:4-24.3 and it appears that disclosure of said records is necessary to plan for or implement the placement of the person in a less restrictive or alternative environment, and the patient is unable or unwilling to give informed consent for said disclosure, a petition for the release of such records and the authority to execute any and all documents necessary to effectuate such placement, including but not limited to any and all applications and financial forms, may be made pursuant to R. 1:6 as follows:

- **(A) Contents.** The petition shall set forth the person or facility making the application, the name of the patient, the type of facility in which placement is sought, the commitment status of the patient, the reasons for the request, the response of the patient and his or her next-of-kin, and the relief requested.
- **(B) Service; Protective Order.** A copy of the petition shall be served on the patient and the patient's attorney, if any. The court may in its discretion appoint an attorney to represent an unrepresented patient. The court shall enter a protective order to preserve the confidentiality of the records to the greatest extent possible.
- **(i) Order for Payment for Commitment to a Psychiatric Facility.**
  - **(1)** The patient's legal settlement and provision for payment of the expenses of the patient's care and treatment at a psychiatric facility shall be determined by the court on petition of the county adjuster, which shall be accompanied by a report stating the results of the county adjuster's investigation and the county adjuster's recommendations. The county adjuster's petition and report shall be served upon the patient or the patient's legal guardian if any, the patient's attorney, and any person who may be legally responsible for payment. The petition shall set forth the name and address of the county adjuster and the address of the court and shall state that any objection to the recommendations of the county adjuster shall be filed with the court and served upon the county adjuster within 20 days after service of the petition and report. The petition shall further state that if no objection is filed within the 20-day period, the court may enter an order imposing liability in accordance with the recommendations of the report of the county adjuster. If no objection is filed, the court may enter an appropriate order based on the petition. If an objection is filed, an order may be entered only after a hearing on notice, which may be summary in nature.
  - **(2)** The person or public body charged with the responsibility for payment of the expenses of the patient's care and treatment at a psychiatric facility shall also be charged with the fee of assigned counsel and guardian ad litem and reasonable costs, including the costs of experts, incurred by either of them in representing the patient. If the assigned counsel or guardian ad litem is employed by a legal services project, counsel's fee shall be ordered payable thereto. If counsel is employed by the State or county, no fee allowance shall be made.
- **(j) Filing.** All documents referred to in this rule shall be filed in the County Adjuster's office together with an affidavit of service of all notices herein required. The files of the County Adjuster shall not, however, be open to inspection by any person other than assigned counsel, guardian ad litem and the Deputy Clerk of the Superior Court except on court order in exceptional circumstances and for good cause shown.

Note:Source – paragraphs (a) (b) (c) (d) (e) (f) and (g), captions and text deleted and new text adopted July 17, 1975 to be effective September 8, 1975; paragraphs (a), (b), (c), (e), (f) amended and (j) caption and text deleted and new caption and text adopted September 13, 1976, to be effective September 13, 1976; paragraphs (b), (d), and (f) amended July 24, 1978, to be effective September 11, 1978; paragraph (f) amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended July 22, 1983 to be effective September 12, 1983; paragraphs (e) and (f) amended and paragraphs (g) and (h) caption and text amended November 2, 1987 to be effective January 1, 1988; paragraphs (a) and (b) amended, subparagraphs (b)(1) and (2) adopted, paragraphs (c), (d) and (e) amended, caption and text of paragraph (f) amended, and caption and text of subparagraphs (g)(1) and (2) amended November 7, 1988 to be effective immediately; November 7, 1988 amendments rescinded February 21, 1989 retroactive to November 7, 1988; November 7, 1988 amendments reinstated June 6, 1989 to be effective June 7, 1989; subparagraph (c)(2) amended June 6, 1989 to be effective June 7, 1989; paragraph (g) recaptioned and text adopted and paragraphs (g) (h) (i) and (j) redesignated (h) (i) (j) and (k) June 29, 1990 to be effective September 4, 1990; paragraphs (c), (e) and (g) amended July 14, 1992 to be effective September 1, 1992; paragraphs (b)(2), (c)(1) and (4), (e), (f), (h)(2), (i)(1) and (2) and (k) amended July 13, 1994 to be effective September 1, 1994; amended January 22, 1997 to be effective March 1, 1997; paragraph (f)(2) amended July 27, 2006 to be effective September 1, 2006; paragraph (f)(2) amended July 9, 2008 to be effective September 1, 2008; paragraphs (a), (b), (c), (e), and (h) amended, paragraph (f) caption and text amended, new subparagraphs (f)(3) and (f)(4) adopted, and paragraph (i) caption and text amended July 10, 2012 to be effective August 1, 2012.

#### **4:74-7A. Civil Commitment-Minors**

- **(a) Definitions.**
  - **(1) Minor.** A minor is any person who has not yet reached the age of eighteen.
  - **(2) Childhood Mental Illness.** Childhood mental illness means a current substantial disturbance of thought, mood, perception, or orientation which differs from that which is typical of children of a similar developmental stage, and which significantly impairs judgment, behavior, or capacity to recognize reality when also compared with children of a similar developmental stage. A seizure disorder, a developmental disability, organic brain syndrome, a physical or sensory handicap, or a brief period or periods of intoxication caused by alcohol or other substances is not sufficient by itself to meet the criteria for childhood mental illness.
  - **(3) Dangerous to Self, Others or Property.** The definitions in N.J.S.A. 30:4-27.2h and -27.2i shall apply to minors. With respect to a minor under 14 years of age, dangerous to self shall also mean that there is a substantial likelihood that the failure to provide immediate, intensive, institutional, psychiatric therapy will create in the reasonably foreseeable future a genuine risk of irreversible or significant harm to the child arising from the interference with or arrest of the the child's growth and development and, ultimately, the child's capacity to adapt and socialize as an adult.
  - **(4) Children's Crisis Intervention Service.** Children's crisis intervention service means a community-based acute care inpatient psychiatric service designated by the Commissioner of the Department of Human Services to provide assessment, crisis stabilization, evaluation and treatment to children in need of involuntary commitment or eligible for parental admission or voluntary admission.
- **(b) Applicability.** All provisions of R. 4:74-7 (Civil Commitment-Adults) shall be applicable to the commitment of minors, except as follows:
  - **(1)** The certificates required by R. 4:74-7(b) shall state with particularity the facts upon which the psychiatrist, physician or mental health screener relies in concluding that (a) the minor suffers from childhood mental illness, (b) the childhood mental illness causes the minor to be dangerous to self or others or property as defined in R. 4:74-7A(a)(3), and (c) the minor is in need of intensive psychiatric treatment that can be provided at a psychiatric hospital, special psychiatric hospital or children's crisis intervention service and which cannot be provided in the home, the community or on an outpatient basis.
  - **(2)** The order of temporary commitment prescribed by R. 4:74-7(c) shall fix a date certain for the commitment hearing within 14 days after the initial inpatient admission to the facility, which date shall not be subject to adjournment except that in exceptional circumstances and for good cause shown in open court and on the record, the hearing may be adjourned for a period of not more than seven days. Notice shall be served not less than five days prior to the hearing.
  - **(3)** A guardian ad litem, other than the applicant for the commitment, shall be appointed to represent the patient. If the court, for good cause shown, appoints a guardian ad litem who is not an attorney, counsel for the guardian ad litem shall also be appointed. The guardian ad litem shall, unless relieved by court order, continue to represent the minor in respect of all matters arising under this rule until the minor is either released or reaches majority. Assigned counsel and guardian ad litem fees shall be fixed by the court after hearing and paid pursuant to R. 4:74-7(i).
  - **(4)** A final order of commitment pursuant to R. 4:74-7(f) may be entered if the court finds that either:
    - **(i)** a minor fourteen years of age or older (a) suffers from childhood mental illness, (b) that the childhood mental illness causes the minor to be dangerous to self or others or property as defined by N.J.S.A. 30:4-27.2h and -27.2i and (c) that the minor is in need of intensive psychiatric treatment that can be provided at a psychiatric facility, special psychiatric



- hospital, or children's crisis intervention service and which cannot be provided in the home, the community or on an outpatient basis; or
- **(ii)** a minor under fourteen years of age (a) suffers from childhood mental illness, (b) that the childhood mental illness causes the minor to be dangerous to self or others or property as defined by R. 4:74-7A(a)(3) and (c) that the minor is in need of intensive psychiatric treatment that can be provided at a psychiatric facility, special psychiatric hospital, or children's crisis intervention service and which cannot be provided in the home, the community or on an outpatient basis.
  - **(5)** The commitment shall be judicially reviewed no later than every three months from the date of its last entry until the minor is discharged or reaches the age of 18.
  - **(6)** The hearings on an application to convert to voluntary status pursuant to R. 4:74-7(g) shall be held within 14 days rather than the 20 days prescribed for adults.
  - **(7)** Any and all provisions relating to involuntary commitment to outpatient treatment.
- **(c) Voluntary Admission.** Irrespective of whether the standard of involuntary commitment stated by this rule is met, any minor 14 years of age or over may request admission to a psychiatric facility, special psychiatric hospital, or children's crisis intervention service provided the court on a finding that the minor's request is informed and voluntary, enters an order approving the admission. If an order approving a voluntary admission of a minor is entered, the minor may discharge himself or herself from the facility in the same manner as an adult who has voluntarily admitted himself or herself. An order approving a voluntary admission shall be reviewable as provided by paragraph (b)(5) of this rule, however, said review may be summary.
  - **(d) Parental Admission and Discharge.**
    - **(1) Admission.** This rule shall not be construed to require any court procedure or approval for the admission of a minor by the minor's parent, parents, or other person in loco parentis to a psychiatric facility, special psychiatric hospital, or children's crisis intervention service for the evaluation or diagnosis of a childhood mental illness provided the admission is independently approved by a physician on the staff of the facility and does not exceed seven days. If further hospitalization is then required, the applicant shall proceed in accordance with R. 4:74-7(e). If an application for commitment is made during such admission, the final hearing shall be held within 14 days of the initial inpatient admission to the facility, adjournable only in accordance with paragraph (b)(2) of this rule.
    - **(2) Discharge.** The admitting parent or other person in loco parentis shall have the right to have the minor discharged upon oral or written request. The psychiatric facility, special psychiatric hospital, or children's crisis intervention service shall discharge the minor as soon as practicable but no later than 48 hours after the request unless the facility obtains a temporary order of commitment.

Note: New rule relating to the commitment of minors adopted January 22, 1997 to be effective March 1, 1997; new subparagraph (b)(7) adopted July 10, 2012 to be effective August 1, 2012.

#### **4:74-8. Notice of Appeal From Wage Collection Section**

The notice of appeal from any judgment obtained in the Wage Collection Section of the Wage and Hour Bureau of the Department of Labor and Workforce Development shall be filed in the office of the deputy clerk of the Superior Court in the county in which the subject employment is located and shall briefly describe the judgment and state that the party appeals therefrom. Either party may bring on the hearing of the appeal upon 10-days' notice to the other party.

Note: Source - R.R. 5:2-9. Amended November 22, 1978 to be effective December 7, 1978; amended July 22, 1983 to be effective September 12, 1983; amended June 28, 1996 to be effective September 1, 1996; amended July 27, 2006 to be effective September 1, 2006.

#### **4:74-9. Fixing Time and Place of Birth of Person of Unknown Parentage**

- (a) Complaint. An application pursuant to N.J.S.A. 26:8-40.2 et seq., to fix the time and place of birth in this State of a person of unknown parentage shall be made by the verified complaint of such person or by a guardian ad litem on the person's behalf, filed in the office of the deputy clerk of the Superior Court in the county of venue, entitled "In the matter of application of \_\_\_\_\_ (using the name by which the person is then known) to fix the time and place of birth", and alleging that such person was found in this State as a child; that the person's parentage and the place and time of birth are unknown; the place where, the time when, and the circumstances under which the person was found, the person's probable age at that time and the probable date of birth; the place or places where such person has resided since being found and now resides; and that such person has not been guilty of any of the acts specified in N.J.S.A. 26:8-40.5.
- (b) Notice; Hearing. Upon the filing of the complaint, the court shall fix a time and place for hearing thereon and, if such person is of the supposed age of 12 years or over, shall give not less than 20 days' notice of the time and place so fixed to the United States District Attorney for the District of New Jersey. At the hearing the court shall take oral testimony and, if satisfied as to the truth of the allegations of the complaint, shall enter judgment accordingly.

Note: Source-R.R. 5:2-10(a)(b). Paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended June 28, 1996 to be effective September 1, 1996.

#### **4:74-10. Money Judgments Rendered in Special Proceedings**

When a money judgment is rendered in a proceeding referred to in R. 4:74 the deputy clerk of the Superior Court in the county of venue shall forthwith enter the judgment in the Civil Docket pursuant to R. 4:47. Upon payment by the proponent of the judgment of the fee prescribed by N.J.S.A. 22A:2-7, the judgment shall be entered in the Civil Judgment and Order Docket in accordance with R. 4:101-2.

Note: Adopted July 11, 1979 to be effective September 10, 1979; amended June 28, 1996 to be effective September 1, 1996.