

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY**  
**RULE 6:6. JUDGMENT**

**6:6-1. Applicability of Part IV Rules**

R. 4:42 (insofar as applicable), R. 4:43-3, R. 4:44 to 4:46, inclusive, and R. 4:48 to 4:50, inclusive, shall apply to the Special Civil Part, except that the requirements of a statement of material facts and a responding statement contained in R. 4:46-2(a) and (b) shall not apply.

**Note:** Source-R.R. 7:9-5, 7:9-6 (third sentence), 7:10-1, 7:10-2, 7:12-1, 7:12-2, 7:12-3, 7:12-4. Amended by order of September 5, 1969 effective September 8, 1969; amended November 7, 1988 to be effective January 2, 1989; amended July 5, 2000 to be effective September 5, 2000.

**6:6-2. Entry of Default and Automatic Vacation Thereof**

When a party against whom affirmative relief is sought has failed to appear, plead or otherwise defend as provided by law or these rules, or has failed to appear at the time fixed for trial, or if the party's answer is stricken on order of the court, the clerk shall enter the party's default. A party against whom a default has been entered for failure to plead or enter an appearance may have same automatically removed by the clerk provided there is filed with the clerk within 30 days of its entry a written application with the consent of the adversary endorsed thereon consenting to the vacation of the default, which application shall include the answer or other responsive pleading of the party in default and its filing fee.

**Note:** Source -- R.R. 7:9-1; caption and text amended November 2, 1987 to be effective January 1, 1988; amended July 13, 1994 to be effective September 1, 1994; amended August 1, 2016 to be effective September 1, 2016.

**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 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. §10226.2(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. §10226.7, 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) Entry by the Clerk; Judgment for Possession. In summary actions between landlord and tenant for the recovery of premises, judgment for possession may be entered by the clerk on affidavit if the defendant fails to appear, plead or otherwise defend, and is not a minor or mentally incapacitated person, except where the landlord acquired title from the tenant or has given the tenant an option to purchase the property. The affidavit must state the facts establishing the jurisdictional good cause for eviction required by the applicable statute and that the charges and fees claimed to be due as rent, other than the base rent, are permitted to be charged as rent by the lease and by applicable federal, state, and local law. If the landlord is not represented by an attorney, the affidavit must state that the landlord is not a corporation or other business entity precluded from appearing pro se by R. 6:10. If the landlord is represented by an attorney, that attorney must also submit a certification that the charges and fees claimed to be due as rent, other than the base rent, are permitted to be charged as rent by the

lease and by applicable federal, state, and local law. If the basis for eviction requires service of a notice to quit, the landlord's affidavit must have a copy of all required notices attached, and the affidavit must state that the notices were served as required by law and that the facts alleged in the notices are true.

If the landlord fails to obtain or make written application for the entry of a judgment for possession within 30 days after the entry of default, such judgment shall not be entered thereafter except on application to the court and written notice to the tenant served at least seven days prior thereto by simultaneously mailing same by both certified and ordinary mail or in the manner prescribed for service of process in landlord/tenant actions by R. 6:2-3(b); provided, however, that the 30-day period may be extended by court order or written agreement executed by the parties subsequent to the entry of default and filed with the clerk.

(c) Entry by the Court; Particular Actions. In all actions to which paragraphs (a) or (b) do not apply, the party entitled to a judgment by default shall apply to the court therefor. No judgment by default shall be entered against a minor or mentally incapacitated person without 5 days' written notice to the guardian or a guardian ad litem appointed for the minor or mentally incapacitated person; nor against any other party without written notice to that party, if the court, in the interest of justice, orders such notice. When a landlord acquired title from the defendant or has given the tenant an option to purchase the property, a judgment for possession by default shall not be entered without proof in open court. If application is made for the entry of judgment by default in deficiency suits or claims based directly or indirectly on the sale of a chattel that has been repossessed peaceably or by legal process, the plaintiff shall prove entitlement to a judgment by affidavit containing a description of the property, the amount realized at the sale or credited to the defendant, the costs of sale and such other proof as required by law. If the plaintiff's claim is for an unliquidated sum that the court finds is susceptible of proof through personal knowledge (as opposed to opinion or expert testimony), it shall enter judgment by default against a defendant either upon oral testimony in open court or upon affidavit containing the qualifications of the affiant and the information that would be required in the case of oral proof. In all negligence actions involving damage to property, proof of negligence of the defendant shall be by affidavit of the person with knowledge of the negligence of the defendant. In automobile negligence actions and insurance subrogation cases proof of the property damage shall be given by an affidavit of an automobile mechanic or an insurance adjuster or appraiser setting forth the affiant's occupation and business address; if employed, the name of the employer and the affiant's position; the date of inspection of the property involved and, if a vehicle, specifying its make or model, its condition at that time, and its mileage if available; the repairs actually made and the estimated cost thereof; a statement that the repairs were necessary and the charges therefor reasonable; and the amount actually paid for repairs, if completed. The plaintiff may request or the court, after review of the affidavits submitted in accordance with this rule, may require oral testimony in open court.

(d) Time for Entry. If a party entitled to a judgment by default fails to apply therefor within 6 months after entry of default, judgment shall not be entered except on motion to the court and all applicable proofs required under 6:6-3(a) through (c) shall be attached to the moving papers.

(e) Notice of Entry. At the time a default judgment is entered, the clerk shall notify the judgment-creditor or judgment-creditor's attorney of the effective date and amount of the judgment. Upon receipt of the notice, the judgment-creditor shall notify the judgment-debtor within 7 days by ordinary mail of the effective date and amount of the judgment.

**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 July 22, 2014 to be effective September 1, 2014; paragraph (a) amended August 1, 2016 to be effective September 1, 2016.

#### **6:6-4. Consent Judgments for Possession and Stipulations of Settlement**

Notwithstanding any consent by a tenant, no warrant of removal may be issued or executed unless in compliance with all provisions of law.

(a) Entry by the Court. A stipulation of settlement or an agreement that provides for entry of a judgment for possession must be written, signed by the parties, and presented to a judge for approval on the day of trial or as the judge otherwise directs, but if it requires the tenant to both pay rent and vacate the premises, the judge shall review it in open court. It must also be accompanied by the affidavit of the landlord and the certification of the landlord's attorney required by R. 6:6-3(b).

(b) Entry by the Clerk. When the tenant is represented by an attorney and the attorney has signed the agreement, the clerk may enter judgment for possession upon receipt of the signed consent of the parties and the affidavit of the landlord and the certification of the landlord's attorney specified in R. 6:6-3(b).

**Note:** Adopted July 18, 2001 to be effective November 1, 2001.

### **6:6-5. Judgment After Trial; Costs**

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.

**Note:** Source-R.R. 7:9-6 (first two sentences), as Rule 6:6-4; redesignated as Rule 6:6-5 July 18, 2001 to be effective November 1, 2001.

### **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 application for orderly removal requesting more time to move out, if there is a showing of good reason and 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.

(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 law 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 July 22, 2014 to be effective September 1, 2014.

## **6:6-7. Issuance by Clerk of Certificate of Satisfaction of Judgment**

In cases where a judgment debtor has fully satisfied a judgment, but the clerk has not entered satisfaction on the record pursuant to R. 4:48-2(a) because either the party receiving full satisfaction has not given a warrant for satisfaction or no execution issued on the judgment has been returned fully paid, the judgment debtor may make written application to the clerk for the issuance of a certificate of satisfaction of judgment. Upon receipt of such written application along with proof of payment, the clerk shall send to the attorney for the judgment creditor or the judgment creditor, if pro se, a letter setting forth that the judgment debtor has filed a written application seeking the issuance of a certificate of satisfaction of judgment and that said certificate will be issued within 10 days, unless written objection is received by the clerk with a copy sent to the judgment debtor. The letter sent by the clerk shall include a copy of the written application and proof of payment filed by the judgment debtor. If no objection is received within 10 days from the date of the letter, the clerk shall issue the certificate of satisfaction of judgment to the judgment debtor and enter satisfaction on the record. If an objection is received, the clerk shall set the matter down for a hearing and notify all parties as to the date of the hearing.

**Note:** Adopted as Rule 6:6-5 November 7, 1988 to be effective January 2, 1989; redesignated as Rule 6:6-6 July 18, 2001 to be effective November 1, 2001; redesignated as Rule 6:6-7 July 12, 2002 to be effective September 3, 2002.