

SECTION 1 : CASE INITIATION

a. Procedure for Instituting a Civil Case

Most cases are initiated by the filing of a complaint. See *R. 4:2-2*. A complaint is a pleading that sets forth the plaintiff's claim against the defendant. The complaint shall contain:

- a brief statement indicating the grounds upon which the court's jurisdiction depends, *e.g.*,
 - a party to the claim resides in the filing county
 - the cause of action occurred in the filing county
 - affected real property, as set forth in the complaint, is located in the filing county (see *R. 4:3-2*);
- a brief statement of the claim showing that the pleader is entitled to relief;
- the "wherefore" clause, generally demanding judgment for the relief sought;
- the certification, stating that there is no other pending court action arising from the cause of action set forth by the complaint (see *R. 4:5-1(b)(2)*); and
- the original signature of an attorney duly licensed to practice in New Jersey or a self-represented plaintiff or "*pro se*", if a *pro se* appearance is permitted by the court rules (*i.e.*, papers submitted on behalf of a corporation or other entity, however formed and for whatever purpose, including churches, but not including sole proprietorships, must be signed by a New Jersey licensed attorney). See *R. 1:21-1(c)*.

Civil cases can also be initiated by way of a verified complaint (*i.e.*, one that is sworn to) and an Order to Show Cause (OSC). The filing fee for this is \$200.00 for the verified complaint and \$30.00 for the OSC. This alternative procedure is used in the rare instance in which the plaintiff in the particular case requires some emergent relief or the matter involves a summary action pursuant to *R. 4:67* or an action under *R. 4:70-1* for the enforcement of a statutory penalty. Examples of summary actions under *R. 4:67* that must be brought by way of verified complaint and OSC include:

- Actions to expunge a voluntary or involuntary civil commitment. *N.J.S.A. 30:4-80.9*.
- Actions by insured to compel UIM arbitration after settlement with a

tortfeasor. See *R. 4:67 et seq.* and *Rutgers Cas. Ins. Co. v. Vassas*, 139 N.J. 163, 174 (1995).

- Actions to discharge a construction lien. *N.J.S.A. 2A:44A-30.*
- Proceedings to obtain money deposited pursuant to a lien on real estate. *N.J.S.A. 2A:56-20.*
- Appeals by police officers pursuant to *N.J.S.A. 40A:14-150.*
- Appeals by investigators in the county prosecutors' offices pursuant to *N.J.S.A. 2A:157-10.7.*
- Controversies between execution creditors as to application of money realized from the sale of the property of a judgment debtor under executions issued out of different courts. *N.J.S.A. 2A:17-6.*
- Actions for enforcement of written agreement for alternative resolution. *N.J.S.A. 2A:23A-4.*
- Actions to challenge an election. *N.J.S.A. 19:28-1 et seq.*
- Actions for cancellation or discharge of a mortgage loan. *N.J.S.A. 46:10B-6.*
- Actions to confirm, vacate or modify an outside arbitration award including a fee arbitration award entered pursuant to *R. 1:20A et seq.* *N.J.S.A. 2A:23A-26.* It should be noted that if a suit was pending prior to the matter going to fee arbitration, a summary action should not be filed. Rather, default can be entered pursuant to *R. 1:20A-3 (e).* See *R. 1:20A-3 (e).*
- Actions for civil penalties for violations of the animal cruelty laws. *N.J.S.A. 4:22-17.*
- Actions to recover wages paid at less than the minimum wage. *N.J.S.A. 34:11-56.40.*
- Actions by crime victims to recover the proceeds of sale of criminal memorabilia. *N.J.S.A. 52:4B-28.*
- Actions for a determination of costs and expenses when the court vacates arbitration awards. *N.J.S.A. 2A:23A-18.*

In either instance, *i.e.*, cases initiated with complaints or verified complaints with an OSC, service of these documents on the defendant is required, along with a summons (see *R. 4:4-1*). However, when a case is initiated via a verified complaint and OSC, the signed OSC serves as original process and no summons is needed. Forms of OSCs when used as original process are found in Appendix XII-F through XII-I of the Rules of Court and are posted on the Judiciary's Internet Website. See also Directive #16-05. As will be