

**ADMINISTRATIVE OFFICE OF THE COURTS  
STATE OF NEW JERSEY**

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**Supplement to Directive #13-04**

Questions or Comments  
may be directed to:  
**(609) 292 – 0012**

**TO: Assignment Judges**

**FROM: Glenn A. Grant, J. A. D.**

**DATE: October 22, 2008**

**RE: Bail – (1) Revised Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court); (2) Judiciary Cash Bail Forfeiture and Judgment Protocol (Superior Court)**

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Directive #13-04 (dated November 17, 2004) ("Revisions to Forms and Procedures Governing Bail and Bail Forfeitures") promulgated changes to various documents and procedures related to bail processing, bail forfeitures and judgments, including the Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court). This supplements that Directive so as to include procedures for cash bails, a thirty-day limit on orders to stay a preclusion, and a requirement that bail forfeiture and judgment motions be heard within five weeks of receipt of the motion. Thus, appended are (a) a revised version of the Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol (Superior Court), which supersedes the protocol distributed as Attachment C to Directive #13-04; and (b) a new Judiciary Cash Bail Forfeiture and Judgment Protocol (Superior Court). These protocols are issued on the recommendation of the Conference of Criminal Presiding Judges, the Conference of Criminal Division Managers, and the Vicinage Finance Managers.

This supplement to Directive #13-04 does not affect any other portions of or attachments to that Directive. Those portions and attachments remain in effect.

**Attachments**

cc: Chief Justice Stuart Rabner  
Criminal Division Judges  
AOC Directors and Assistant Directors  
Trial Court Administrators  
Criminal Division Managers  
Finance Division Managers

Jennifer Perez, Chief Dep. Clerk, Superior Court  
Susanne Johnson, Financial Services  
John J. Wieck, Criminal Practice Division  
Steven D. Bonville, Special Assistant  
Francis W. Hoeber, Special Assistant

**Superseding  
Attachment C to  
Directive # 13-04**

**Judiciary Corporate Surety  
Bail Forfeiture and Judgment Protocol  
(Superior Court)  
(Revised)**

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**Judiciary Cash Bail  
Forfeiture and Judgment Protocol  
(Superior Court)  
(New)**

Revised and Reissued  
October 22, 2008

## **JUDICIARY CORPORATE SURETY BAIL FORFEITURE AND JUDGMENT PROTOCOL (revised)**

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This revised protocol defines the procedures and responsibilities for financial and case processing of bail forfeitures and judgments in the Criminal and Finance Division of Superior Court and the Office of the Clerk of the Superior Court in accordance with R.3:26-6, R.1:13-3 and R.2:9-6(c). It supersedes the protocol that was promulgated November 17, 2004 (as an attachment to Directive #13-04).

### **I. BREACH OF RECOGNIZANCE**

When a defendant breaches a condition of a recognizance by failing to appear at a court event, the following steps shall take place:

- A.** The court, on its own motion, shall order a warrant for the defendant's arrest and forfeiture of the bail.<sup>1</sup>
- B.** The Criminal Division shall generate from PROMIS GAVEL a joined warrant and forfeiture order.
- C.** The Criminal Division shall enter the forfeiture into PROMIS GAVEL and an electronic notice of the order of forfeiture will be sent to the Finance Division via the PROMIS GAVEL/Central Automated Bail System (CABS) Interface.
- D.** The Finance Division shall enter the forfeiture into CABS.
- E.** The Finance Division shall mail the CABS-generated notice of forfeiture to the insurer, bail agency and bail agent whose names appear on the recognizance the address recorded in the Bail Registry. The Finance Division shall mail the CABS-generated notice of forfeiture to the defendant and County Counsel. The notice of forfeiture shall contain the language authorized by R.3:26-6.

### **II. PROCEDURE TO BE FOLLOWED WHEN A FORFEITED BAIL IS REINSTATED.**

- A.** If bail has been forfeited, after a fugitive's capture the bail shall not be reinstated without the surety's consent.
- B.** If the court orders reinstatement of a forfeited bail, the Criminal Division shall update PROMIS GAVEL and provide written notice of the reinstatement to the Finance Division.
- C.** The Finance Division will update the bail status in CABS.

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<sup>1</sup> Bail should not be forfeited if the warrant is only being issued in order to lodge a detainer against the defendant.

**III. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO SET ASIDE THE BAIL FORFEITURE.**

- A.** The surety files a motion with the Criminal Division seeking to set aside the bail forfeiture.
- B.** The Criminal Division will schedule a hearing date and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C.** The Criminal Division will notify County Counsel and the party filing the motion of the scheduled motion date.
- D.** Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and send copies of the judge's order to County Counsel, the party that filed the motion, and the Finance Division. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

**IV. PAYMENT OF FORFEITURE BEFORE ENTRY OF JUDGMENT**

- A.** All forfeiture payments are to be made to the Judiciary Finance Division, with Checks to be made payable to "Treasurer, State of New Jersey".
- B.** Unless otherwise specifically ordered by the court, partial payments shall not be accepted.
- C.** The Finance Division shall enter the payment into CABS and deposit the funds.

**V. PROCEDURE TO BE FOLLOWED TO SUMMARILY ENTER A JUDGMENT IF A FORFEITURE IS NOT SET ASIDE BY THE COURT OR SATISFIED BY THE SURETY AT THE EXPIRATION OF 75 DAYS.**

- A.** The Finance Division will track all forfeitures. When a forfeiture becomes 75 days old, the Finance Division shall print a CABS-generated judgment and send it to the Criminal Division for the judge's signature. The judgment shall contain the language authorized by Rule 3:26-6.
- B.** The Criminal Division will review the judgments to ensure that a motion has not been filed before submitting the judgment to the designated bail judge for signature.
- C.** The Criminal Division will enter the date of the signed judgment into PROMIS GAVEL.
- D.** The Criminal Division will provide a copy of the original signed judgment to the Finance Division.

- E.** The Finance Division will update the bail status in CABS.
- F.** The Finance Division will mail copies of the judgment to the insurer, the bail agency, and the bail agent whose names appear on the recognizance using the addresses recorded in the Bail Registry.
- G.** The Finance Division will forward a copy of the judgment to County Counsel for collection.
- H.** The Finance Division will send a copy of the judgment to the Clerk of the Superior Court indicating that the surety has failed to pay or to file an objection pursuant to Rule 3:26-6(a).
- I.** The Clerk of the Superior Court in accordance with Rule 1:13-3 (e) (2) will notify the insurer, at the address recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days of the date of the notice the insurer will be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court will provide a copy of the notice to the Criminal and Finance Divisions.
- J.** The Finance Division will within one business day notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), when a judgment has been satisfied.
- K.** Unless an appeal is filed and simultaneously the full amount of the judgment is deposited \* with the Clerk of the Superior Court or the judgment is satisfied within 15 days of the date of the notice, the Clerk of the Superior Court will remove from the Bail Registry the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State. In addition, the Clerk of the Superior Court will remove the names of those who acted in such capacity with respect to the forfeited bond from the Bail Registry from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agency, or bail agent shall not be accepted during the period that they are removed from the Bail Registry.

\*For good cause shown the trial court may allow the posting of a supersedeas bond in lieu of the cash deposit. See R. 2:9-6 (c) and also Section VII of this Protocol.

- L.** The Clerk of the Superior Court shall forward a copy of the Order of Judgment to the Commissioner of the Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625-0329 with a cover letter requesting that the

Department take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request for the Department to send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

- M.** Upon receipt of notice that all judgments contained in the preclusion notice issued to a insurer have been satisfied, the Clerk of the Superior Court will reinstate to the Bail Registry the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manager its bail bond business in this State. In addition, the Clerk of the Superior Court will reinstate the names of those who acted in such capacity with respect to the forfeited bond to so act for any other insurer.

## **VI. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO VACATE A JUDGMENT**

- A.** The surety files a motion to vacate the judgment with the Criminal Division.
- B.** The Criminal Division will schedule a hearing date for the motion and will enter that date and schedule into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C.** The Criminal Division will notify the party filing the motion and County Counsel of the court date.
- D.** The Criminal Division will notify the Clerk of the Superior Court if the court enters an order to stay removal of the insurer, bail agency or agent from the Bail Registry pending the motion to vacate being heard. Such stays granted by the court should be limited to thirty days.
- E.** The Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and will provide written notification to the Finance Division if the motion is granted.
- F.** The Finance Division will update the bail status in CABS in accordance with the judge's decision.
- G.** The Criminal Division will notify the Clerk of the Superior Court of the decision on the motion only if the outcome of the motion vacates the judgment.

## **VII. PROCEDURE TO FOLLOW IF A SUPERSEDEAS BOND IS REQUESTED.**

- A.** The surety files a motion with the Criminal Division seeking to file a supersedeas bond.
- B.** The Criminal Division will schedule a date for hearing the motion and will enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C.** The Criminal Division will notify the party filing the motion and County Counsel of the court date.
- D.** If the judge grants the motion to post a supersedeas bond, the Criminal Division will send a copy of the judge's order to the Finance Division.
- E.** The Finance Division will immediately notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), once a supersedeas bond has been posted to ensure that the Clerk of the Superior Court does not remove the names of the insurer, bail agency or agent from the Bail Registry.
- F.** The Finance Division will attach the supersedeas bond to the original bond.
- G.** The Criminal Division will notify the Finance Division and the Clerk of the Superior Court when any appeal has been concluded.

## **VIII. PROCEDURE FOR CONSENT ORDERS**

- A.** Whenever County Counsel and a surety reach an agreement to satisfy a judgment, County Counsel shall provide the Criminal Division with a completed uniform Consent Order form for submission to the designated bail judge.
- B.** The Criminal Division will provide a copy of the signed Consent Order to the Finance Division and to County Counsel.
- C.** The Finance Division will send a copy of the signed Consent Order to the Clerk of the Superior Court if the Consent Order is entered after the judgment has been sent to the Clerk of the Superior Court.
- D.** The Criminal Division will record the judge's action on the Consent Order into PROMIS GAVEL.
- E.** The Finance Division shall monitor the compliance of the terms of the uniform Consent Order.
- F.** All payments on Consent Orders shall be made to the Judiciary Finance Division, with checks made payable to "Treasurer, State of New Jersey".

**IX. PROCEDURE TO BE FOLLOWED WHEN A SURETY FAILS TO FOLLOW THE CONSENT ORDER WHERE A JUDGMENT WAS PREVIOUSLY ENTERED.**

- A.** The Finance Division will track Consent Order payment schedules and payments and upon a surety's failure to pay in accordance with the provision of a Consent Order, the Finance Division shall notify County Counsel and the Clerk of the Superior Court of that failure to pay pursuant to the Consent Order and that, as provided by the Consent Order, the judgment thus is reinstated.
- B.** The Finance Division will mail a copy of the notice to the insurer, the bail agency and the bail agent whose name appears on the recognizance using the address recorded in the Bail Registry, advising them that the judgment is being reinstated due to the failure to follow the provisions of the Consent Order previously entered.
- C.** The Clerk of the Superior Court will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the original judgment within 48 hours, it will be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.
- D.** The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, PO Box 329, Trenton, New Jersey, 08625-0329 with a cover letter requesting the Department to take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request that the Department send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

**X. PROCEDURE TO BE FOLLOWED WHEN A SURETY FAILS TO FOLLOW THE CONSENT ORDER AND A JUDGMENT WAS NOT PREVIOUSLY ENTERED.**

- A.** The Finance Division will track consent orders, payment schedules, and payments. Upon a surety's failure to pay in accordance with the provisions of the Consent Order, a judgment can be entered without further notice for the original amount of the bond. The Finance Division will generate such order for judgment for signature by the judge.
- B.** The Criminal Division will enter the date of the signed judgment into PROMIS GAVEL.



- C. The Criminal Division will provide a copy of the original signed judgment to the Finance Division.
- D. The Finance Division will update the bail status in CABS.
- E. The Finance Division will mail a copy of the judgment to the insurer, the bail agency, and the bail agent whose name appears on the recognizance at the address recorded in the Bail Registry.
- F. The Finance Division will forward copies of the judgment to County Counsel and to the Clerk of the Superior Court.
- G. The Clerk of the Superior Court in accordance with Rule 1:13-3 (e) (2) will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days it will be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manager its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court will provide copies of the notice to the Criminal and Finance Divisions and to corporate surety counsel.
- H. The Finance Division will immediately notify the Clerk of the Superior Court via Electronic transmission (e-mail or fax), when a judgment has been satisfied.
- I. In accordance with Rule 2:9-6(c), unless an appeal is filed and simultaneously the full amount of the judgment is deposited with the Clerk of the Superior Court or the judgment is satisfied within 15 days, the Clerk of the Superior Court will remove the name of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in the State from the Bail Registry until such time as the judgment has been satisfied. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.
- J. The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, PO Box 329, Trenton, New Jersey, 08625-0329 with a cover letter requesting the Department to take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request that the Department send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

- K. Upon receipt of notice that all judgments contained in the preclusion notice issued to an insurer have been satisfied, the Clerk of the Superior Court will reinstate to the Bail Registry the name of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State. In addition, the Clerk of the Superior Court will reinstate the names of those who acted in such capacity with respect to the forfeited bond, to so act for any other insurer.

## **XI. SATISFACTION OF JUDGMENT**

- A. All judgment payments are to be made to the Judiciary Finance Division, with checks made payable to "Treasurer, State of New Jersey.
- B. The Finance Division shall enter the payment into CABS and deposit the funds.
- C. The Finance Division will notify the Clerk of the Superior Court when a judgment forwarded to the Clerk of the Superior Court under this protocol has been paid, so that the insurer, the bail agency or bail agent may be reinstated in the Bail Registry. To enable the Clerk of the Superior Court to reinstate promptly, this notice shall be provided to the Clerk by facsimile at (609) 292-6564 or by telephone at (609) 292-4987. Such notice shall include the following information.
- The name of the defendant;
  - The CABS #;
  - The name of the insurer;
  - The dates of the forfeiture and Order of Judgment, and
  - The date the judgment was paid and the amount paid.

## **XII. REMISSIONS (Refunds)**

### **A. Motions**

1. The surety files a motion with the Criminal Division seeking remission of a satisfied judgment.
2. The Criminal Division will schedule a hearing date and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
3. The Criminal Division will notify County Counsel and the party filing the motion of the scheduled motion date.
4. Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and will send copies of the judge's order to County Counsel and to the party that filed the motion.
5. If the motion is granted, the Criminal Division will provide a copy of the

judge's order to the Finance Division. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

**B. Consent Agreements**

1. County Counsel and the surety enter into a Consent Agreement for Remission of all or part of funds paid on a judgment.
2. The parties submit the proposed Consent Agreement to the judge for signature.
3. If the judge signs the Consent Agreement the Criminal Division will provide copies of the signed agreement to the County Counsel and to the surety.
4. The Criminal Division will provide a copy of the signed agreement to the Finance Division. The Finance Division will update the bail status in CABS in accordance with the signed agreement.

**C. Payments**

1. Orders and Consent Agreements should indicate that the remission payments be made directly to the surety by the State and county in proportion to the original distribution of forfeited funds. Remissions are not to be applied against other outstanding judgments of the surety.

# **JUDICIARY CASH BAIL FORFEITURE AND JUDGMENT PROTOCOL (new)**

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This protocol defines the procedures and responsibilities for financial and case processing of cash bail forfeitures and judgments in the Criminal and Finance Divisions of Superior Court and the Office of the Clerk of the Superior Court in accordance with Rules 3:26-6 and 1:13-3.

## **I. BREACH OF RECOGNIZANCE**

When a defendant breaches a condition of a recognizance by failing to appear at a court event, the following steps shall take place:

- A.** The court, on its own motion, shall order a warrant for the defendant's arrest and for forfeiture of the bail.
- B.** The Criminal Division will generate from PROMIS GAVEL a joined warrant and forfeiture order.
- C.** The Criminal Division will enter the forfeiture into PROMIS GAVEL and an electronic notice of the order of forfeiture will be sent to the Finance Division via the PROMIS GAVEL / Central Automated Bail System (CABS) Interface.
- D.** The Finance Division will enter the forfeiture into CABS.
- E.** The Finance Division will mail the CABS-generated notice of forfeiture to the defendant, the sureties, and County Counsel. The notice of forfeiture shall contain the language authorized by Rule 3:26-6.

## **II. PROCEDURE TO BE FOLLOWED WHEN A FORFEITED BAIL IS REINSTATED**

- A.** If bail has been forfeited, it shall not be reinstated after a fugitive's capture without the surety's consent.
- B.** If the court orders reinstatement of a forfeited bail, the Criminal Division will update PROMIS GAVEL and will provide notice of the reinstatement to the Finance Division.
- C.** The Finance Division will update the bail status in CABS.

**III. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO SET ASIDE THE BAIL FORFEITURE.**

- A.** The surety files a motion with the Criminal Division seeking to set aside the bail forfeiture.
- B.** The Criminal Division will schedule a date for the hearing and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C.** The Criminal Division will notify County Counsel, the party filing the motion, and the Finance Division of the scheduled motion date.
- D.** Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and send copies of the judge's order to County Counsel, the party that filed the motion, and the Finance Division.
- E.** The Finance Division will update the bail status in CABS in accordance with the judge's decision.

**IV. PROCEDURE TO BE FOLLOWED TO SUMMARILY ENTER A JUDGMENT, IF FORFEITURE IS NOT SET ASIDE BY THE COURT OR SATISFIED BY THE SURETY AT THE EXPIRATION OF 75 DAYS.**

- A.** The Finance Division will track all forfeitures. When a forfeiture becomes 75 days old, the Finance Division will print a CABS-generated judgment and send it to the Criminal Division for the judge's signature. The judgment shall contain the language authorized by Rule 3:26-6.
- B.** The Criminal Division will review the judgments to ensure that a motion has not been filed before submitting the judgment to the designated bail judge for signature.
- C.** The Criminal Division will enter the date of the signed judgment order into PROMIS GAVEL.
- D.** The Criminal Division will provide a copy of the original signed judgment to the Finance Division.
- E.** The Finance Division will update the bail status in CABS, resulting in the forfeited funds being split between the State and the county.
- F.** The Finance Division will mail copies of the judgment to the parties listed on the order. A copy must be mailed to the Clerk of the Superior Court for 10% cash bails so that a civil judgment can be entered and recorded against the defendant for the remaining 90%.

- G.** Judgments should be mailed to the Superior Court Clerk's Office, Civil Judgment Unit, P.O. Box 971, Trenton, N.J. 08625-0971.

## **V. MOTIONS TO VACATE JUDGMENTS**

- A.** The surety files a motion to vacate the judgment with the Criminal Division.
- B.** The Criminal Division will schedule a date for hearing the motion and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C.** The Criminal Division will notify the party filing the motion, County Counsel, and the Finance Division of the court date.
- D.** The Criminal Division will record the judge's decision on the motion into PROMIS GAVEL. The order should indicate whether the bail is reinstated or remitted.
- E.** The Criminal Division will provide a copy of the judge's order to the Finance Division.
- F.** The Finance Division will update the bail status in CABS in accordance with the judge's decision.

## **VI. PROCEDURES FOR CONSENT ORDERS**

- A.** If County Counsel and a surety reach an agreement to satisfy a judgment, County Counsel shall provide the Criminal Division with a completed uniform Consent Order form for submission to the designated bail judge for signature.
- B.** The Criminal Division will provide copies of the signed Consent Order to the Finance Division and to County Counsel.
- C.** The Criminal Division will record the judge's decision on the Consent Order into PROMIS GAVEL.

## **XI. SATISFACTION OF JUDGMENT**

- A.** All judgment payments are to be made to the Finance Division, with checks to be made payable to "Treasurer, State of New Jersey."
- B.** The Finance Division will enter the payment into CABS and deposit the funds.