

## **Bail C Forfeitures**

Directive #9-79  
Issued by:

March 6, 1980  
Robert D. Lipscher  
Administrative Director

Questions of procedure and of filing fees have been raised since the merger of the County Courts with the Superior Court with respect to the follow-up and obtaining a judgment on bail forfeitures under the 10% cash bail program. There is a prescribed procedure as to corporate bail pieces. There are no set procedures as to 10% cash bail forfeitures and several of the County Counsel have proceeded differently.

Many County Counsel prior to the merger would file a civil action in the County Court to obtain judgments on the 10% bail forfeitures and were not obligated to pay the filing fees to the County Clerk. Since the merger they must bring the action in the Superior Court and therefore are obligated to pay the Superior Court Clerk's filing fees.

It would appear that there is no reason why the judgment on the forfeiture cannot be obtained in the original criminal action.

It is therefore suggested that as far as forfeitures of the 10% cash bail at the county level, the necessary notices and pleadings be filed in the criminal matter as it is in the Superior Court Law Division. This would not require the payment of the Superior Court Clerk's fees. Additionally, since any judgment entered on the forfeiture of the bail would be for a sum of money, the Clerk of the Superior Court would file the judgment in the Civil Judgment and Order Docket upon receipt from the County Clerk (*N.J.S.A. 2A:16-11*).

As for those forfeitures in the Municipal Courts, it is suggested that the original case be used for entry of the judgment of forfeitures where 10% cash bail has been posted. The judgment as entered could then be docketed in the Superior Court on request of the municipal counsel (*N.J.S.A. 2A:8-42*).

The advantage of using the original action as the vehicle to obtain the judgment is that it does not require setting up a new docket and does not require any filing fees. Since the judgment is taken against the defendant there is no new or other party in interest.

The order of judgment to be entered as to the 90% could contain an additional paragraph as to the disposition of the 10% cash if there are problems with respect to the transfer of the 10% cash from the bail accounts to the appropriate Treasurer. Attached please find a suggested form of judgment.

### **EDITOR-S NOTE**

No change has been made to the original text.

Attorney for Plaintiff

SUPERIOR COURIOR OF NEW JERSEY  
COUNTY -  
LAW DIVISION  
IND. NO.

STATE OF NEW JERSEY,  
Plaintiff,

-v-

ORDER FOR JUDGMENT

and

Defendants.

This matter being opened to the Court by Attorney for the County of \_\_\_\_\_, a political subdivision of the State of New Jersey, and no one appearing on behalf of the Defendant(s), \_\_\_\_\_ on the return date of a Motion to show cause why judgment should not be entered against \_\_\_\_\_ subject to an Order of Forfeiture made by this Court on the \_\_\_ day of \_\_\_\_\_ in the amount of \_\_\_ and;

It appearing that the aforesaid bail forfeiture in the amount aforesaid is still outstanding and has not been set aside, and;

It further appearing that due and proper notice was made to the aforesaid

It is on this \_\_\_ day of \_\_\_\_\_, 19\_\_, ORDERED that judgment be entered against the said \_\_\_\_\_ and in favor of the County of \_\_\_\_\_, in the amount of \_\_\_\_\_ plus costs, pursuant to *R.3:26-6, et seq.*; and

It is further ORDERED that this judgment shall be entered on the Civil Judgment Docket of the Clerk of the New Jersey Superior Court and that execution may issue without further application to the Court or notice to the aforesaid Defendant; and

If is further ORDERED that the \_\_\_\_\_ County Clerk shall pay to the Treasurer of the County of \_\_\_\_\_ any monies on deposit in his or her office in the name of the Defendant(s).

J.S.C.