

RULE 1:2. Conduct Of Proceedings Generally

1:2-1. Proceedings in Open Court; Robes

All trials, hearings of motions and other applications, pretrial conferences, arraignments, sentencing conferences (except with members of the probation department) and appeals shall be conducted in open court unless otherwise provided by rule or statute. If a proceeding is required to be conducted in open court, no record of any portion thereof shall be sealed by order of the court except for good cause shown, as defined by R. 1:38-11(b), which shall be set forth on the record. Settlement conferences may be heard at the bench or in chambers. Every judge shall wear judicial robes during proceedings in open court.

Note: Source-R.R. 1:28-6, 3:5-1 (first clause), 4:29-5, 4:118-5, 7:7-1, 8:13-7(c); amended July 14, 1992 to be effective September 1, 1992; amended July 16, 2009 to be effective September 1, 2009.

1:2-2. Trial Courts; Verbatim Record of Proceedings

In the trial divisions of the Superior Court and in the Tax Court, all proceedings in court shall be recorded verbatim except, unless the court otherwise orders, settlement conferences, case management conferences, calendar calls, and ex parte motions. Unless a transcript thereof is marked into evidence, a verbatim record shall also be made of the content of an audio or video tape played during the proceedings and the tape itself shall be marked into evidence as a court's exhibit and retained by the court. Ex parte proceedings pursuant to R. 4:52 and R. 4:67 shall, however, be recorded verbatim subject to the availability of either a court reporter or a recording device. In the municipal courts, the taking of a verbatim record of the proceedings shall be governed by R. 7:8-8. Charge conferences, whether conducted in open court or in chambers, shall be recorded verbatim as required by R. 1:8-7(a).

Note: Source -- R.R. 3:7-5 (first sentence), 3:7-10(d) (fifth sentence), 4:44-2 (first sentence), 4:44-5, 4:61-1(b). Amended June 20, 1979 to be effective July 1, 1979; amended December 20, 1983 to be effective December 31, 1983; amended July 26, 1984 to be effective September 10, 1984; amended January 5, 1998, to be effective February 1, 1998; amended July 10, 1998 to be effective September 1, 1998; amended July 5, 2000 to be effective September 5, 2000; amended July 12, 2002 to be effective September 3, 2002; amended July 28, 2004 to be effective September 1, 2004.

1:2-3. Exhibits

The verbatim record of the proceedings shall include references to all exhibits and, as to each, the offering party, a short description of the exhibit stated by the offering party or the court, and the marking directed by the court. Following the conclusion of trial, evidence shall be returned to the proponent and so acknowledged on the record unless the court otherwise orders. The record shall note any exhibits retained by the court. All evidence shall be preserved pending direct appeal and proceedings on certification, and shall be made available for inclusion by any party in the record on appeal.

Note: Source-R.R. 3:7-5A, 4:45B; amended November 2, 1987 to be effective January 1, 1988; amended July 13, 1994 to be effective September 1, 1994.

1:2-4. Sanctions: Failure to Appear; Motions and Briefs

(a) Failure to Appear. If without just excuse or because of failure to give reasonable attention to the matter, no appearance is made on behalf of a party on the call of a calendar, on the return of a motion, at a pretrial conference, settlement conference, or any other proceeding scheduled by the court, or on the day of trial, or if an application is made for an adjournment, the court may order any one or more of the following: (a) the payment by the delinquent attorney or party or by the party applying for the

adjournment of costs, in such amount as the court shall fix, to the Clerk of the Court made payable to "Treasurer, State of New Jersey," or to the adverse party; (b) the payment by the delinquent attorney or party or the party applying for the adjournment of the reasonable expenses, including attorney's fees, to the aggrieved party; (c) the dismissal of the complaint, cross-claim, counterclaim or motion, or the striking of the answer and the entry of judgment by default, or the granting of the motion; or (d) such other action as it deems appropriate.

(b) Motions; Briefs. For failure to comply with the requirements of R. 1:6-3, 1:6-4 and 1:6-5 for filing motion papers and briefs and for failure to submit a required brief, the court may dismiss or grant the motion or application, continue the hearing to the next motion day or take such other action as it deems appropriate. If the hearing is continued, the court may impose sanctions as provided by paragraph (a) of this rule.

Note: Source - R.R. 1:8-5, 4:5-5(b) (second sentence), 4:5-10(e), 4:6-3(b), 4:29-1(c), 4:41-6. Amended June 20, 1979 to be effective July 1, 1979; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 27, 2006 to be effective September 1, 2006.

1:2-5. Advancement of Cases for Trial or Argument [Deleted June 28, 1996 to be effective September 1, 1996]

Official Comment to Deleted R. 1:2-5

The deleted rule attempted to accord preference in the scheduling of cases for trial, hearing or argument across trial court and Appellate Division lines. The rule was deleted as the Supreme Court takes the position that the issue of calendar preference is best addressed administratively rather than in the context of court rules. Nonetheless, as a matter of policy, the preferences enumerated in the rule should be looked to as guidelines in determining priority of cases scheduled for trial, hearing or argument in the trial courts and the Appellate Division. These preferences include: (1) all contested matters where a principal issue is the custody, status, welfare and protection of minors; criminal and quasi-criminal cases, election actions, actions (except negligence actions) to which the State, a county, municipality or other public or quasi-public agency is a party; (2) if the action is in a trial court, all cases to be tried without a jury; (3) appeals on leave granted pending in the appellate courts; (4) workers' compensation appeals; and (5) such other cases as any court may from time to time order.

1:2-6. Case Management Conference; Orders

All dispositions made and directives issued by the court at a case management conference shall be memorialized by order.

Note: Adopted June 28, 1996 to be effective September 1, 1996.