

Proof Hearing [macbook]

In all Personal Injury cases and most civil cases, Final Judgment by Default can only be entered by a Superior Court Judge, after a "proof hearing" in front of the Judge at the Courthouse.

Court Rule 4:43-2(b) deals with obtaining a Final Judgment by Default on these Civil cases in what is called a Proof hearing:

(b) Default By the Court. In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against a minor or mentally incapacitated person unless that person is represented in the action by a guardian or guardian ad litem who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, that party (or, if appearing by representative, the representative) shall be served with notice of the motion for judgment filed and served in accordance with R. 1:6. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any allegation by evidence or to make an investigation of any other matter, the court may conduct such hearings with or without a jury or take such proceedings as it deems appropriate, and in that event, if the defendant was originally served with process either personally or by certified or ordinary mail, the attorney for the claimant shall give notice of the proof hearing to the defaulting defendant by ordinary mail addressed to the same address at which process was served.

In tort actions involving multiple defendants whose percentage of liability is subject to comparison and actions in which fewer than all defendants have defaulted, default judgment of liability may be entered against the defaulting defendants but such questions as defendants' respective percentages of liability and total damages due plaintiff shall be reserved for trial or other final disposition of the action.

If application is made for the entry of judgment by default in deficiency suits or claims based directly or indirectly upon the sale of a chattel which has been repossessed, the plaintiff shall prove before the court the description of the property, the amount realized at the sale or credited to the defendant and the costs of the sale. In actions for possession of land, however, the court need not require proof of title by the plaintiff. If application is made for the entry of judgment by default in negligence actions involving property damage only, proof shall be made as provided by R. 6:6-3(c).

At the Proof Hearing, the Judge will need to be presented with testimony of the injury/ damages and evidence. The Proof Hearing is held before a Judge who will read

medical reports, documents and statements submitted by the plaintiff. The Judge will then listen to testimony from the plaintiff and the plaintiff's witnesses. The Judge will make a decision as to who is responsible and whether damages should be awarded. In accident cases we suggest you visit the accident site during the week prior to proof hearing.

We provide a copy of the Answers to Interrogatories to our clients. Plaintiffs should carefully review the answers to interrogatories before the proof hearing and any other court related matters. You should be fully familiar with the information which was supplied by way of answers to interrogatories because many of the Judge's questions will involve the same information. If you cannot locate your copy of the Answers to the Interrogatories, please call your attorney's office and they should forward to you another copy of the Answers to the Interrogatories.

You must be present in court and prepared to proceed at that time. You should bring all of your papers in connection with your case to Court. Please call your attorney's secretary approximately 24 hours before this hearing to confirm that the court has not adjourned your hearing.

IN PERSONAL INJURY CASES CONTACT DOCTORS TO DETERMINE UNPAID AMOUNTS

Under NJ Law, you will be personally liable for unpaid medical and treatment bills. Many MRI facilities and physical therapy centers fail to provide notice of unpaid bills to clients. Medical providers sometimes fail to properly submit to insurance, major medical or other available insurers. We highly recommend that you call all doctors, hospitals and any other medical providers to determine whether there are unpaid bills and to

confirm when they sent their bill to the insurance companies. If there is an unpaid bill, have the medical provider send a copy to you and fax a copy to the attorney's office. Under the New Jersey Collateral Source Law, a defendant is not liable for any bills unless the bill is first submitted to the insurance companies.

After the Default Judgment is obtained, your attorney will docket the judgment in the Superior Court Clerk's office in Trenton. The Filing Fee is \$35 in 2005.

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TRIAL AND LITIGATION EXPERIENCE

In his private practice, he has devoted a substantial portion of his professional time to the preparation and trial of litigated matters. He appears in Courts throughout New Jersey several times each week on many personal injury matters, Criminal and Municipal/ traffic Court trials, Probate hearings and contested administrative law hearings.

Mr. Vercammen served as the Prosecutor for the Township of Cranbury, Middlesex County and was involved in trials on a weekly basis. He also argued all pre-trial motions and post-trial applications on behalf of the State of New Jersey.

He has also served as a Special Acting Prosecutor in Woodbridge, Perth Amboy, Hightstown, Carteret, East Brunswick, Jamesburg, South Brunswick, South River and South Plainfield for conflict cases. Since 1989, he has personally handled hundreds of criminal and motor vehicle matters as a Prosecutor and now as defense counsel and has had substantial success.

Previously, Mr. Vercammen was Public Defender for the Township of Edison and Borough of Metuchen and a Designated Counsel for the Middlesex County Public Defender's Office. He represented indigent individuals facing consequences of magnitude. He was in Court trying cases and making motions in difficult criminal and DWI matters. Every case he personally handled and prepared.

His resume sets forth the numerous bar associations and activities which demonstrate his commitment to both the legal profession and providing quality representation to clients.

Since 1985, his primary concentration has been on litigation matters. Mr. Vercammen gained other legal experiences as the Confidential Law Clerk to the Court of Appeals of Maryland (Supreme Court) with the Delaware County, PA District Attorney Office handling Probable Cause Hearings, Middlesex County Probation Department as a Probation Officer and an Executive Assistant to Scranton District Magistrate, Thomas Hart, in Scranton, PA.