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**To: Assignment Judges
Trial Court Administrators** **Directive #03-16**

From: Glenn A. Grant, J.A.D. 

Date: June 7, 2016

Subj: Limitations on the Refunds of Court Filing Fees Where There is No Court Order

This directive outlines a change in the procedure for providing refunds of court filing fees where there is not a court order indicating that a refund should occur. It replaces and supersedes all previous directives, memorandum and bulletins regarding the refund of filing fees. It is being issued after review by all of the divisional conferences and the Administrative Council.

This directive establishes specific criteria and a consistent uniform approach for the refund of filing fees in the Superior Court. Further, it clarifies that a document is deemed received upon (1) the transmission of the electronically transmitted document to an approved Judiciary repository or (2) upon being stamped as received if the document was transmitted to the court on paper.

Rule 1:32-2A provides that a document electronically filed or maintained has the "same force and effect as data and documents maintained by the clerks of court in paper form." Directive #01-14 ("Electronic Records Management Guidelines") further provides that the "content of an original record or an electronically executed document must be secure and shall not be altered or enhanced." Where a document is electronically transmitted to an approved Judiciary repository (e.g., JEFIS, eCourts), the document must appear in the court record without alteration. This same practice applies to the collection of fees for documents submitted on paper. Thus, where a document is deemed received, whether on paper or electronically, the appropriate fee is due and required and cannot be refunded absent a court order. This directive applies to all fee payment types, including cash, check, money order and Judiciary collateral account.

Once the document is received, the filing party is entitled to a refund as a matter of course only in certain limited instances. Those instances are:

1. Where the filing party remitted payment in an amount that exceeded the amount of the fee to be charged;
2. Where the filing party remitted payment in anticipation of the court permitting the filing of that document, but the court subsequently did not permit the filing;
3. Where the filing party's document was "received not filed" pursuant to Rule 1:5-6 and the filing party failed to correct the deficiency; or
4. Where an order has been issued by the court directing the refund of court filing fees paid by a party.

Thus, where a filing party fails to meet any of the instances noted above, a refund shall not be issued.

The change in procedure is in those instances where a refund has been permitted absent a court order. Historically, refunds in many instances have been permitted at the discretion of the division manager, without requiring the citing of a specific authority permitting the return of the filing fee to the party. This practice has resulted in a lack of consistency and uniformity regarding the refund of filing fees.

This directive clarifies those instances where a filing fee **shall not** be refunded absent a court order, such as:

1. Where a filing party transmits a document multiple times and the court receives it multiple times;
2. Where pleadings such as complaints or trial de novo applications are filed by both parties on the same day or within a few days of each other;
3. Where a motion is either denied by the court or withdrawn by the filing party after the document was stamped as received;
4. Where a writ of execution or wage execution is denied or withdrawn after the document was stamped as received;
5. Where a warrant is denied or withdrawn after the document was stamped as received; and
6. Where a document is considered "non-conforming" or is missing required documents (such as a certification or proof of mailing).

In addition, pre-paid fees pertaining to Special Civil Part Officers pursuant to N.J.S.A. 22A:2-37.2 shall be refunded if an application is denied.

Questions regarding this directive may be directed to Superior Court Clerk Michelle Smith by email at Michelle.Smith@njcourts.gov or by phone at 609-984-4200.

G.A.G

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
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