

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

**Notice of Proposed Amendments to the Superior Court Rules of
Procedure for the Small Claims and Conciliation Branch**

The District of Columbia Superior Court Rules Committee recently completed review of proposed amendments to the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch. The Rules Committee will recommend to the Superior Court Board of Judges that the amendments be approved unless, after consideration of comments from the Bar and the general public, the proposed amendments are withdrawn or modified.

Written comments must be submitted by August 14, 2017. Comments may be emailed as a PDF file to Laura.Wait@dcsc.gov or may be mailed to:

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All comments submitted in response to this notice will be available to the general public. New language is underlined and deleted language is stricken through.

Rule 1. Scope, Title, and Purpose of Rules.

(a) SCOPE. These ~~R~~Rules govern the procedure in actions brought in this ~~C~~Ccourt pursuant ~~to~~under D.C. Code §§ 11-1321 and 16-3901 ~~to -3910 et seq.~~ (2012 Repl. & 2017 Supp. 1984). When any case ~~is~~is brought in the Small Claims and Conciliation Branch is certified to the Civil ~~Division~~Actions Branch pursuant ~~to~~under ~~SCR-SC~~SCRRule 6, ~~such~~the case ~~shall~~must be scheduled for trial on an expedited basis and ~~shall~~remains subject to these ~~Small Claims and Conciliation R~~Small Claims and Conciliation Rrules in all respects. When any case ~~is~~is brought in the Small Claims and Conciliation Branch is certified to the Civil ~~Division~~Actions Branch pursuant ~~to~~under ~~SCR-SC~~SCRRule 8, it ~~shall be~~is subject in all respects to the Superior Court Rules of Civil Procedure.

(b) TITLE. These ~~R~~Rules may be known as the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch and may be cited as "Super. Ct. Sm. Cl. R. _____."~~Superior Court Rules -- Small Claims or SCR-SC.~~

(c) PURPOSE. These ~~rules~~rules ~~shall~~should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The citation for the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch has been updated to conform to the District of Columbia Court of Appeals Citation and Style Guide.

Rule 2. Applicability of ~~e~~Certain Superior Court Rules of Civil Procedure.

Except where inconsistent with the ~~se R~~rules of this Branch or the expeditious and informal nature of small claims and conciliation proceedings ~~therein~~, the following Superior Court Rules of Civil Procedure are applicable to actions brought in the Small Claims and Conciliation Branch ~~of the court~~:

Civil Rules 5, 5-I, 5-II, 5-III, 6, 6-I, 8, 9, 9-I, 10, 10-I, 11, 12(b)-(h), 14, 15, 16, 16-I, 16-II (~~exclusive of 16-I~~), 17, 19, 20, 21, 22, 23, 23-I, 23.2, 24, 25, 38, 38-II, 39, 39-I, 39-II, 40-I, 41, 42, 43, 43-I, 44, 44-I, 44.1, 45, 46, 47, 48, 49, 50, 51, 52, 53, 53-I, 53-II, 54, 54-I, 54-II, 55, 55-I, 55-II, 55-III, 56, 57, 58, 59, 60, 61, 62, 62-I, 62.1, 63, 64, 64-I-65, 65.1, 66, 67, 67-I, 68, 69, 69-I, 69-II, 70-I, 71, 71.1, 71.1-I, 72, 73, 77, 77-II, 79, 80, 82, 83, 84, 86, 101, 102, 103, 201, 202, and 203.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule now specifically lists applicable local civil rules with roman numeral designations; the omission of a local civil rule with a roman numeral designation is an indication that the rule is not applicable.

COMMENT

Any reference herein to a particular Rule, as, for example, "Rule 5", comprehends both the original Rule and any addenda thereto, e.g., "Rule 5-I".

Rule 3. Commencement of ~~a~~Actions.

(a) IN GENERAL.

~~(1) Filing the sStatement of eClaim.~~ Actions ~~are~~shall be commenced ~~in this Branch by the delivery to the Clerk of~~by filing a statement of claim, verification, and notice (together with an exact copy for each defendant), printed on plain white paper approximately 8 1/2 inches wide by 11 inches long.

~~(2) Form of Pleading; Requirements. Said~~The pleading ~~shall~~must be in a form prescribed ~~by the court in Small Claims Forms 1-11.~~ The statement of claim ~~shall~~must contain a simple but complete statement of the plaintiff's claim, and ~~shall~~be accompanied by a copy of any contract, promissory note, or other instrument ~~upon~~ which the claim is based.

~~(b) Entries by the Clerk.~~ Actions commenced in this Branch shall be consecutively numbered each year commencing with the number one (1), and the letters "SC" shall be placed ahead of such number to distinguish actions in this Branch from proceedings in other branches or divisions of the Court. — Every paper filed shall have noted thereon by the Clerk the date of the filing thereof.

(~~b~~) ADDRESSES AND TELEPHONE NUMBERS OF PARTIES AND

~~ATTORNEYS~~addresses of parties and attorneys. ~~¶Unless a party or attorney files written notice of a change,~~ the addresses and telephone numbers, ~~if any,~~ of the parties and their ~~attorneys~~attorneys that are stated in the original statement of claim or ~~are~~ first given by them, ~~shall be~~are considered as the ~~current~~true addresses and telephone numbers of ~~such~~the parties and attorneys for the purpose of all subsequent notices in the case, ~~unless such party or attorney notifies the Clerk in writing of a change in such address.~~

(c) ELECTRONICALLY FILED DOCUMENTS. Any documents filed electronically must be in the form required by Rule 3(a), but otherwise must comply with Civil Rule 5.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Former section (b) has been eliminated because it addressed internal administrative processes of the court.

Rule 4. Service of Process

(a) ~~In general!~~ IN GENERAL. ~~Service of process shall be made by serving~~ The plaintiff is responsible for having a copy of the statement of claim, verification, ~~and notice, and any attachments thereto, and any order directed by the court to the parties at the time of the filing served on the defendant, in one of the following ways which may, at the plaintiff's election, be attempted either concurrently or successively:~~

(b) BY WHOM. Service of process must be made by one or more of the following persons:

(1) By the United States Marshal or his deputy only by Court order.

(2) By any competent person who is at least over the age of 18 years of age and not a party to or otherwise interested in the claim; suit who is a bona fide resident of, or has a regular place of business in, the District of Columbia, and who is specially appointed by the judge or approved by the Clerk for that purpose.

(2) a clerk of the Small Claims and Conciliation Branch, for service by registered or certified mail as provided in Rule 4(c), as to any defendant described in Rule 4(e), (g), or (h); or

(3) a United States marshal or deputy marshal if authorized by the court.

~~(c3)~~ BY REGISTERED OR CERTIFIED MAIL.

(1) In General. By delivering a copy of the statement of claim and verification to t~~The Clerk~~ may serve any defendant described in Rule 4(e), (g), or (h) by: who shall, on the day of filing, enclose

(A) mailing a copy of the statement of claim, verification and notice in an envelope addressed to the defendant materials required by Rule 4(a) to the person to be served by registered or certified mail, return receipt requested, with or without restricted delivery, prepay the postage with funds obtained from the plaintiff on the day of filing; and

(B) mail the papers forthwith, noting on the record for that case the day and hourtime of mailing, and the registry or certification or registry number.

~~(b) When service by mail is valid.~~

(24) Delivery of notice ~~Required Materials~~. Service by registered or certified mail shall be deemed ~~is~~ valid if it is delivered by the postman ~~mail carrier~~ to the addressee or to any other responsible person qualified to receive the addressee's registered or certified mail, in accordance with the postal laws and regulations of the United States, which laws and regulations shall be judicially noticed in this Branch. Even if the registered or certified mail is ~~Service shall not be set aside on the ground that the notice was delivered to a person not so qualified, service is valid if the notice~~ materials required by Rule 4(a) in fact came to the attention of the addressee within a reasonable time after delivery by the postman, mail carrier and within a reasonable time before the date specified in said ~~the~~ notice.

(32) Notice ~~Service~~ Valid a ~~Although r~~ Refused. If notice in fact came to the attention of the addressee within a reasonable time as provided in subsection (b)(1), such notice shall be ~~Service is~~ valid although even if refused by the defendant refuses delivery of the registered or certified mail and not delivered for that reason, provided that if: promptly up

(A) on receipt of notice of such ~~the~~ refusal, the Clerk promptly shall mail ~~s~~ to the defendant by ordinary mail a copy of the statement of claim and verification ~~materials~~ required by Rule 4(a), together with a notice that:

~~(i) stating that despite such the refusal, the case will be proceeded with on the date specified in the original notice;~~

~~(ii) naming that includes the date and hour time specified in the original notice;~~ and

~~(iii) warning the defendant that a judgment by default will may be rendered against him the defendant unless he the defendant appears to defend the suit;~~ and

~~(B) the materials required by Rule 4(a) in fact come to the attention of the addressee within a reasonable time as provided in Rule 4(c)(2), except that the refusal of the certified mailing and the mailing by the clerk, alone, are not adequate to prove that the materials required by Rule 4(a), in fact, came to the attention of the addressee.~~

~~(d) MANNER OF CONDUCTING SERVICE. Service of process under Rule 4(b) and (c) may, at the plaintiff's or the court's election, be attempted either concurrently or successively.~~

~~(e) SERVING AN INDIVIDUAL WITHIN THE UNITED STATES. Unless applicable law provides otherwise, an individual—other than a minor or an incompetent person—may be served anywhere in the United States by:~~

~~(1) following District of Columbia law, or the state law for serving process in an action brought in courts of general jurisdiction in the state where service is made; or~~

~~(2) doing any of the following:~~

~~(A) delivering a copy of the materials required by Rule 4(a) to the individual personally;~~

~~(B) leaving a copy of the materials required by Rule 4(a) at the individual's dwelling house or usual place of abode with someone of suitable age and discretion who resides there; or~~

~~(C) delivering a copy of the materials required by Rule 4(a) to an agent authorized by appointment or by law to receive service of process.~~

~~(f) SERVING A MINOR OR AN INCOMPETENT PERSON WITHIN THE UNITED STATES. A minor or an incompetent person in the United States must be served by following District of Columbia law (D.C. Code §§ 13-332 and -333 (2012 Repl.)) or the state law for serving process on such a defendant in an action brought in the courts of general jurisdiction of the state where service is made.~~

~~(g) SERVING A CORPORATION, PARTNERSHIP, OR ASSOCIATION WITHIN THE UNITED STATES. Unless applicable law provides otherwise, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served within the United States:~~

~~(1) in the manner prescribed by District of Columbia law, or the state law for serving process in an action brought in courts of general jurisdiction in the state where service is made; or~~

~~(2) by delivering a copy of the materials required by Rule 4 (a) to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant.~~

~~(h) SERVING THE DISTRICT OF COLUMBIA, AN AGENCY OR OFFICER OF THE DISTRICT OF COLUMBIA, OR OTHER GOVERNMENT ENTITIES SUBJECT TO SUIT.~~

~~(1) State or Local Government. A state, municipal corporation, or other state-created governmental organization that is subject to suit must be served by:~~

(A) delivering a copy of the materials required by Rule 4(a) to its chief executive officer; or

(B) serving the materials required by Rule 4(a) in the manner prescribed by that state's law for serving process on such a defendant.

(2) District of Columbia.

(A) In General. The District of Columbia must be served by delivering or mailing copies of the materials required by Rule 4(a) to the Mayor of the District of Columbia (or designee) and the Attorney General of the District of Columbia (or designee).

(B) Designees. The Mayor and the Attorney General may each designate an employee for receipt of service of process by filing a written notice with the court clerk.

(C) Service on a Nonparty. In any action attacking the validity of an order of an agency or officer of the District of Columbia not made a party, a copy of the materials required by Rule 4(a) must also be delivered or mailed to the officer or agency.

(D) Agency; Officer or Employee Sued in an Official Capacity. To serve a District of Columbia agency or a District of Columbia officer or employee sued only in an official capacity, a party must serve by delivering or mailing a copy of the materials required by Rule 4(a) to the Mayor (or designee), the Attorney General (or designee), as well as the agency, officer, or employee.

(E) Officer or Employee Sued Individually. To serve a District of Columbia officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the District of Columbia's behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve:

(i) the District of Columbia under Rule 4(h)(2)(A); and

(ii) the officer or employee under Rule 4(e) or (f).

(i) PROVING SERVICE.

(1) Affidavit or Unsworn Declaration Required. Proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit or unsworn declaration.

(A) Service by Delivery. If service is made by delivery pursuant to Rule 4(b)(1) or (3), then the return of service must be made under oath or by unsworn declaration (unless service was made by the United States marshal or deputy United States marshal) and must specifically state:

(i) the caption and number of the case;

(ii) the process server's name, residential or business address, and the fact that he or she is 18 years of age or older;

(iii) the time and place when service was made;

(iv) the fact that the materials required by Rule 4(a) were delivered to the person served; and

(v) if service was effected by delivery to a person other than the party named in the summons, then specific facts from which the court can determine that the person to whom process was delivered meets the appropriate qualifications for receipt of process set out in Rule 4(e)–(h).

(B) Return receipt to be filed Service by Registered or Certified Mail. Upon receipt by service is made by registered or certified mail under Rule 4(b)(2), then the Clerk, every registered or certified return receipt shall be must promptly attached the return receipt to and filed with the original statement of the claim and. The Clerk shall promptly

~~note the return receipt on the docket, sheet the fact of having received such return receipt and indicating whether such the receipt shows delivery to or refusal by the defendant, or other responsible and qualified person; and the date of such delivery, or a refusal by the defendant. If the signature on the return receipt is not legible, or if the return receipt does not purport to be signed by a party named in the statement of claim, then service has not been properly effected unless the court determines from specific facts presented that the person who signed the receipt is either the defendant or a person who meets the appropriate qualifications for receipt of process set out in Rule 4(e)-(h).~~

~~(2) *Validity of Service; Amending Proof.* Failure to prove service does not affect the validity of service. The court may permit proof of service to be amended.~~

~~—(j4) *Date of service* DATE OF SERVICE. Service shall be deemed made:~~

~~(1) as of the date when the notice is on which the materials required by Rule 4(a) are delivered and the return receipt is signed by the defendant or other responsible or qualified person meeting the qualifications in Rule 4(e)-(h); or~~

~~(2) if such the notice registered or certified mail is refused by the defendant, and the notice provided in subsection Rule 4(c)(32)(A) is forthwith promptly sent by ordinary mail, as of the date on which when the registered or certified mail notice would have been delivered, except for such the refusal.~~

~~(c) *Proof of service by private individual.* When service is made by a private individual under these Rules, he shall make proof of service by affidavit before the Clerk in the manner prescribed in SCR-Civil Rule 4(c)(2).~~

~~(d) *Return.* If the notice be not served by the 25th day after its issuance, it shall be returned to the Clerk's Office.~~

~~(k) *RETURN OF SERVICE.* Proof of service either by affidavit or unsworn declaration or by return receipt for service by registered or certified mail must be provided to the clerk's office at least 7 days before the initial court date. If proof of service is not provided to the clerk at least 7 days before the initial court date, then the plaintiff may request that the initial court date be reset, unless both parties are present on the initial court date and elect to proceed. If the initial court date is reset, then the clerk must mail notice to both parties.~~

~~(l) *Applicability of Civil Rule 4* APPLICABILITY OF CIVIL RULE 4. Except as herein provided in this rule, service and proof of service shall be made pursuant to SCR the procedures in Civil Rule 4, (e), (f), (g), (h), (i), (j), (k), and (n). must be followed for:~~

~~(1) serving a party not within the United States (Civil Rule 4(f), (g), (h)(2), or (j)(1));~~

~~(2) serving the United States, and its agencies, corporations, officers, or employees (Civil Rule 4(i));~~

~~(3) determining the territorial limits on service (Civil Rule 4(k)); and~~

~~(4) asserting jurisdiction over property or assets (Civil Rule 4(n)).~~

~~(m) *Time limit for service* TIME LIMIT FOR PROOF OF SERVICE.~~

~~(1) *In General.* Within 60 days of the filing of the complaint, or within 18090 days in actions seeking collection of a liquidated debt or recovery by a subrogee, the plaintiff must file either an acknowledgment of service or proof of service of the summons, the complaint and any order directed by the Court to the parties at the time of filing materials required by Rule 4(a) must be filed. The acknowledgment or A separate proof shall must~~

be filed as to each defendant who has ~~not responded to the complaint~~ been served with those materials.

(2) Motion for Extension of Time. Prior to the expiration of the foregoing time periods, ~~the plaintiff may make~~ a motion ~~may be made~~ to extend the time for service. The motion must set forth in detail the efforts ~~which that~~ have been made, and will be made in the future, to obtain service. ~~If the plaintiff shows good cause, T~~ the Court ~~shall~~ must extend the ~~time for an appropriate period for such time as may be warranted by circumstances set forth in the motion.~~

(3) Service After Granting Extension of Time. Along with the materials identified in Rule 4(a), ~~a copy of the order granting a motion for extension of time and notice of the new court date must be served on the defendant. Proof of service under Rule 4(i) must include, in addition to the materials identified in that rule, the order granting the motion for extension of time and notice of the new court date.~~

(4) Dismissal. With the exception of cases where service is made outside of the United States under Civil Rule 4(f), (h)(2), or (j)(1), ~~the plaintiff's F~~ failure to comply with the requirements of this ~~R~~rule ~~shall~~ will result in the dismissal without prejudice of the ~~complaint~~ claim. The ~~C~~lerk ~~shall~~ will enter the dismissal and ~~shall~~ serve notice thereof on all the parties ~~entitled thereto. This subdivision does not apply service in a foreign country pursuant to subdivision (f) or (h)(2) of SCR Civil 4.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule has also been reorganized to more closely mirror Civil Rule 4, including the addition of specific provisions for serving an individual within the United States; serving a minor or incompetent person within the United States; serving a corporate, partnership, or association within the United States; serving the District of Columbia, an agency or officer of the District of Columbia, or other government entities subject to suit; and serving required materials after the court grants a motion for extension of time to serve. Finally, the time limit for filing proof of service in collections cases has been reduced from 180 to 90 days.

Rule 5. Pleadings.

~~___ It shall not be necessary for any party in any cause in this Branch~~ No party is required to file any answer, plea, or ~~other~~ defense in writing, except ~~to in case the defendant~~ asserts a set-off or counterclaim. All pleadings ~~shall~~ must be ~~so~~ construed so as to do ~~substantial~~ justice.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 6. Jury Demand.

(a) MAKING A JURY DEMAND. On any issue triable of right by a jury, a party may demand a jury trial by serving the other parties with a written demand at or before the initial hearing, or by such extended time as the court may allow for good cause. Any party to an action brought in this Branch may demand a trial by jury of any issue triable of right by a jury by filing a demand for such jury trial signed by the party or his attorney of record. The demand must be filed not later than the time for appearance of the defendant stated in the notice, or such extended time as the Court may allow for good cause shown, and The jury demand must be accompanied by:

__ (1) the fee required by rule or administrative order provided in SCR Civil 202, unless the Court has authorized the party to proceed without payment or prepayment of costs; and

__ (2) a verified answer setting out the facts upon which the defense is based, if the jury demand is made by the defendant.

(b) CERTIFYING CASE TO CIVIL ACTIONS BRANCH. If a jury trial by jury is properly demanded, the court must certify the case will be referred to the Civil Division Actions Branch and scheduled for trial on an expedited basis.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 7. Time of sessions, office hours, and Trials.

~~(a) Sessions. The Small Claims and Conciliation Branch shall hold sessions every day except Sundays and legal holidays, commencing at 9:00 a.m., and shall also hold 1 evening session at 6:30 p.m. every Wednesday except that the evening session shall be conducted on the Thursday following any Wednesday which is a legal holiday.~~

~~(b) Office hours. The office of the Clerk of this Branch shall be open for the transaction of business from 8:30 a.m. until 4:30 p.m. on weekdays, from 9:00 a.m. to 12:00 noon on Saturdays, and, on the day of any evening session, from 6:30 p.m. until the adjournment of the Court or 8:00 p.m. whichever is later.~~

~~(c) Trials. IN GENERAL. All cases shall parties must appear be set for trial at 9:00 a.m. on the appearance dates specified in the notice, unless the case has been continued in accordance with Rule 7(c) provided that any party may contact the Clerk of this Branch and request that the case be set down for trial by the Court at the 1st evening session following the date specified in the notice. Unless consented to by all other parties, such request shall be promptly presented to the presiding judge for disposition.~~

~~(b) CONFIRMING TRIAL DATE. In any case in which both parties are represented by counsel the plaintiff is represented by an attorney, it shall be is the duty of the defendant's attorney, if any, to promptly attempt ~~promptly~~ to contact the plaintiff's attorney by telephone if feasible, otherwise by letter, to confirm ~~that the trial will take place on the~~ trial date specified in the notice or to seek agreement on a continued date arrange for a different trial date by agreement.~~

~~(c) CONTINUANCES.~~

~~(1) By the Clerk. The Clerk may continue any case once as a matter of course for up to 30 days upon a showing that:~~

~~___ (aA) the defendant received notice of the trial less than 75 days before the trial date thereof; or~~

~~___ (bB) the parties have mutually agreed to a continuance. No continuance granted by the Clerk shall exceed 30 days.~~

~~(2) By the Court. The Ccourt may continue any case upon a showing of good cause therefor.~~

~~(3) Notice to Parties. When a continuance is ordered, the Clerk shall must furnish the parties with a notice showing the date and time hour to which such the case has been continued.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Former sections (a) and (b) have been eliminated because they addressed administrative processes.

Rule 8. Certification to ~~Civil Division~~ Civil Actions Branch.

 With the approval of the ~~p~~Presiding ~~j~~Judge of the Civil Division, and when the interests of justice ~~seem to~~ require, the ~~C~~Court may certify any action brought in this ~~B~~Branch to the Civil ~~Division~~ Actions Branch of the Court for further proceedings in that Division. ~~Any action so certified shall be subject in all respects to the Superior Court Rules of Civil Procedure.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The last sentence has been deleted as redundant because Rule 1 already states that actions certified under Rule 8 are subject to the civil rules.

Rule 9. Persons ~~a~~Appearing in a ~~r~~Representative ~~e~~Capacity.

(a) ~~IN GENERAL~~~~n-general~~. Except as provided in ~~sections~~Rule 9(b) and (c) ~~of this Rule, and District of Columbia Court of Appeals Rule 49(c), no person other than a~~only members in good standing of the District of Columbia Bar ~~of this Court shall be~~ are permitted to appear in this Bbranch in a representative capacity for any purpose other than securing a continuance.

(b) ~~CORPORATIONS~~~~corporations~~ AND PARTNERSHIPS. --No corporation or partnership~~shall~~ may appear as a plaintiff in this Bbranch except through a member in good standing of the District of Columbia Bar ~~of this Court~~. Corporations and partnerships may appear as defendants as provided in District of Columbia Court of Appeals Rule 49(c)(11).

(c) LAW STUDENT~~Saw students~~. Any law student admitted to the limited practice of law ~~pursuant to~~under the Rules of the District of Columbia Court of Appeals Rule 48 may engage in the limited practice of law in the Small Claims and Conciliation Branch subject to the provisions of SCR-Civil Rule 101(e).

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The term "partnership" was added to section (b) to reflect a similar change to District of Columbia Court of Appeals Rule 49(c)(11), where the relevant provision is now located.

COMMENT

District of Columbia Court of Appeals Rule 49(c)(6) allows a corporation to appear in defense of a small claim action through an authorized officer, director or employee. The Rule directs that the non-lawyer file along with his or her appearance an affidavit of a corporate officer vesting in the representative the requisite authority to bind the corporation at time of settlement or trial, and the Rule requires that the corporation be represented by a lawyer if the corporation files a cross-claim or a counterclaim, if the matter is appealed or if the matter is certified to the Civil Division.

Rule 10. Discovery.

~~(a) On application of a party, or on its own initiative, the court, ~~F~~for good cause ~~shown,~~ and with due regard for the expeditious and informal nature of the proceedings, ~~the Court~~ may authorize a party to proceed with discovery ~~pursuant to~~ under SCR Civil Civil Rules 26 through 37. In addition to the protective orders ~~provided for~~ permitted in by SCR Civil Civil Rule 26(c), the ~~C~~ourt may shorten the time within which a party is required to perform any act or make any response in connection with discovery. This ~~R~~ule applies ~~with equal force~~ to all actions filed in the Small Claims and Conciliation Branch, ~~including those~~ but subsequently certified to the Civil ~~Division~~ Actions Branch for trial scheduling pursuant to ~~under SCR~~ SCR Rule 6.~~

~~(b) On initiative of the Court. If any claim of any party is unliquidated, or if the interest of justice appears to require it, the Court shall, in the course of the pretrial inquiries provided for in Small Claims Rule 12(a), elicit from the parties or their attorneys a statement as to the necessity for discovery proceedings in order to accomplish just and expeditious determination of the cause. Upon good cause appearing, he shall order or authorize such proceedings pursuant to Superior Court Rules of Civil Procedure 26-37 as the interests of justice seem to require, and shall continue the cause for such period of time as may seem reasonably necessary.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 11. Preliminary ~~p~~Proceedings ~~by the Clerk.~~

~~At the beginning of each session of the Court, the judge or magistrate judge must make an introductory statement approved by the Chief Judge or his or her designee that describes the procedures and legal framework governing cases. the Clerk shall advise all persons present that, except for corporations, no party is required to have an attorney represent him but that any party is entitled to appear through counsel of his choice or may, if he qualifies for such appointment, request the judge to appoint an attorney or 3rd year law student to represent him. The Clerk shall then call the cases assigned for that session in order to determine which, if any, parties are absent. If the plaintiff is present and (1) neither the defendant nor anyone purporting to represent him is present, and (2) there is no question as to the validity of service upon the defendant, and (3) the plaintiff does not seek to recover attorneys fees, the Clerk shall enter a judgment by default in favor of the plaintiff in the amount of any liquidated damages or enter a default subject to ex parte proof before the Court with respect to the amount of any unliquidated damages. In actions for property damage only, proof of unliquidated damages may be made by affidavit as provided in SCR Civ 55-II. If the 3 aforementioned conditions are met and plaintiff is present and seeks to vacate a stay of execution after notice of a hearing to set the stay aside, the Clerk shall vacate such stay except where defendant has been in default for less than 2 weeks. All other cases shall be presented to the Court for disposition.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended to reflect changes to and allow more flexibility in the preliminary procedures.

Rule 12. Proceedings by the Court.

~~(a) Calling the calendarCALLING THE CALENDAR. After the ~~judicial officer~~judge or magistrate judge completes the introductory statement ~~takes the bench~~, the ~~Clerk~~ will must call the cases scheduled for that day to determine which parties are present, assigned to the Court for disposition and the Court will inquire in each instance as to the nature of the claims and defenses and will take appropriate action with respect to any requests for appointment of counsel. In the course of these inquiries the Court shall make an earnest effort to help the parties settle their differences by conciliation and shall, if appropriate, elicit the information required by Small Claims Rule 10(b). If in any case the plaintiff shall fail to appear without prior notice to the Court, the action may be dismissed for want of prosecution, or a non-suit may be ordered, or defendant may proceed to trial on the merits, or the case may be continued or returned to the files for further proceedings on a later date, as the Court may direct. If both parties shall have failed to appear without prior notice to the Court, the Court may order the action dismissed without prejudice for want of prosecution, or make any other just and proper disposition thereof, as justice requires.~~

~~(b) Conduct of the trial. Should the parties fail to settle the controversy, the Court shall proceed with a trial on the merits of the case. The parties and witnesses shall be sworn. The judge shall conduct the trial in such manner as to do substantial justice between the parties according to the rules of substantive law, and shall not be bound by the provisions or rules of practice, procedure, pleading or evidence, except such provisions relating to privileged communications.~~

(b) ENTRY OF A DEFAULT WHEN DEFENDANT FAILS TO APPEAR.

(1) *In General*. When the plaintiff or the plaintiff's attorney is present and neither the defendant nor anyone purporting to speak on behalf of the defendant is present, the court must enter a judgment by default in favor of the plaintiff in the amount of any liquidated damages or enter a default subject to *ex parte* proof as to the amount of any unliquidated damages alleged in the statement of claim if:

(A) the court determines that proper service was made on the defendant; and

(B) the plaintiff has submitted a Civil Action Form 114 that complies with the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901-4043).

(2) *Actions for Property Damage*. In actions for property damage only, proof of unliquidated damages may be presented by affidavit as provided in Civil Rule 55-II.

(c) *REMEDIES WHEN PLAINTIFF FAILS TO APPEAR*. If the plaintiff fails to appear without prior notice to the court, the court may:

(1) dismiss the action for want of prosecution with or without prejudice;

(2) allow the defendant to proceed to trial on the merits; or

(3) continue the case for further proceedings on a later date.

(d) *REMEDIES WHEN BOTH PARTIES FAIL TO APPEAR*. If both parties fail to appear without prior notice to the court, the court may:

(1) dismiss the action without prejudice;

(2) continue the case; or

(3) make any other just and proper disposition that justice requires.

(e) *CONDUCT OF THE TRIAL*. If the parties fail to settle the controversy, the court must proceed with a trial on the merits of the case. The parties and witnesses must be sworn. The court must conduct the trial in a manner that does substantial justice

between the parties according to the rules of substantive law and is not bound by the provisions or rules of practice, procedure, pleading, or evidence, except the provisions relating to privileged communications.

COMMENT TO 2017 AMENDMENTS

This rule has been amended to reflect changes in the preliminary procedures and to include the requirement of a Servicemembers Civil Relief Act form.

Rule 13. Motions and Applications.

(a) ~~IN GENERAL~~n-general. When any motion ~~cognizable in this Branch is dependent~~sent upon facts not apparent ~~upon~~in the record, ~~said~~the motion ~~shall~~must be in writing and shall be accompanied by an affidavit or sworn testimony of the movant, his agent, or some other competent person setting out fully the facts upon which ~~said motion is based~~must include or be accompanied by a statement of points and authorities containing the facts and legal arguments on which the motion is based. The movant may support the motion with affidavits or other forms of sworn testimony, and the court may require the submission of evidence. All citations to cases decided by the United States Court of Appeals for the District of Columbia Circuit shall include the volume number and page of both U.S. App. D.C. and the Federal Reporter.

(b) FILING; NOTICE.

(1) Self-Represented Parties. Parties not represented by counsel ~~shall~~must file all written motions in the ~~C~~Clerk's ~~O~~Office with necessary copies. The ~~C~~Clerk ~~shall~~must send notice of the motion to the opposing party, noting the date and method of service of ~~such~~the notice on the record.

(2) Parties Represented by Counsel. All parties represented by counsel ~~shall~~must serve all written motions in accordance with ~~SCR-Civil Rule~~SCR-Civil Rule 5. Beneath the certificate of service, ~~these same parties shall include on~~ the original motion and each copy ~~must include~~must include the following statement: "THIS MOTION HAS BEEN SET FOR HEARING IN SMALL CLAIMS COURT ON ~~.....~~..... AT ~~.....~~.....", inserting ~~therein~~therein a date and time set by the ~~C~~Clerk.

~~(c)~~(c) ~~SUMMARY JUDGMENT~~summary judgment. Any party seeking to recover ~~upon or defend against~~upon or defend against a claim or counterclaim may ~~file~~file, at any time after the appearance date indicated in the summons, ~~move with or without supporting affidavits for a~~motion for summary judgment ~~in his favor upon all or any part of the claim or counterclaim thereof~~in accordance with SCR-Civil Rule 56.

(d) FUNDS EXEMPT FROM ATTACHMENT.

(1) Filing Application for Exemption. A party may raise a claim that funds are exempt from a writ of attachment by filing an application claiming an exemption and requesting a hearing.

(2) Staying the Writ of Attachment. On the filing of an application, any further action on the writ of attachment, including any condemnation of funds, must be stayed until a decision is made by the judge or magistrate judge on the merits of the application.

(3) Uncontested Applications. The judge or magistrate judge must quash the writ of attachment if the application is uncontested by all interested parties.

(4) Contested Applications. If the application is contested, the matter must be set for a hearing, provided that both sides have received actual notice of the hearing date; been provided a copy of the application, unless the party contesting the application waives its right to receive a copy; and been afforded an adequate opportunity to be heard. The hearing must be set on the day the application is filed or as soon thereafter as practicable, but no later than 7 days after the filing date, unless the judge or magistrate judge, for good cause, sets a later date.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. This rule has also been amended to eliminate the automatic requirement for filing an affidavit or sworn testimony with a motion, but the court may still require it. Section (d) now provides for expedited consideration of a claim that attached funds are exempt from a writ of attachment.

**Rule 13-I. Motions and ~~d~~Discovery in ~~e~~Cases referred to the Civil Division.
Certified to the Civil Actions Branch**

~~___A~~ ~~The judge of the Civil Division~~ to whom a case ~~has been assigned~~ referred for a jury trial ~~pursuant to~~ under SCR-SCR Rule 6 ~~shall~~ will hear and determine all motions pending in the case as of the date of referral and all those filed after that date. Discovery in all ~~such~~ cases assigned for a jury trial may be obtained only by leave of the Ccourt.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 14. Fees.

~~Fees shall be in accordance with the schedule set out in Superior Court Rule of Civil Procedure 202.~~

Rule 145. Costs.

(a) AWARDING COSTS~~ward of costs.~~

(1) In General. ~~The court has discretion to award of reasonable costs to either party shall be according to the discretion of the judge, who may include therein the reasonable cost of bonds and undertakings, and other reasonable expenses incident to the suit incurred in the lawsuit by either party. The court may award costs in a manner intended to discourage the filing of frivolous, vexatious, or false claims or defenses and to prevent interference with the administration of justice in this branch.~~

(2) Service Costs. ~~When process is served by the Marshal, or by registered or certified mail, the actual cost of service shall be taxable as a costs. When served by an individual specially appointed by the Court, or approved by the Clerk, the cost of service, if any, shall be taxable as a costs. The Court may exercise its discretion in the awarding of costs in such manner as to discourage the filing of frivolous, vexatious, or false claims or defenses and to prevent interference with the administration of justice in this Branch.~~

(b) FAILURE TO PAY COSTS~~ailure to pay costs.~~ If any party ~~shall fail~~ to pay accrued costs, though able to do so, the ~~judge of this Branch court shall have power to may~~ deny ~~said that~~ party the right to file any new case in this ~~Branch~~ while ~~such the~~ costs remain unpaid and ~~likewise~~ to deny ~~such the litigant party~~ the right to proceed further in any case pending in this ~~Branch~~.

COMMENT TO 2017 AMENDMENTS

Formerly Rule 15, this rule has been renumbered as Rule 14. Former Rule 14 was deleted as redundant because Civil Rule 202 is already incorporated by Rule 2.

This rule has also been amended consistent with the stylistic changes to the civil rules.

Rule 156. Judgment.

(a) ~~ENTRY OF JUDGMENT~~entry of judgment. A Judgment ~~shall~~must be entered at the time ~~that the court's finding of the judge~~ is entered.

~~(b) New trial. Upon a satisfactory showing that a substantial question of law or fact, or both, is presented, the trial judge may in his discretion grant not more than 10 days in which to file a motion for new trial. Such motion may be disposed of by the Court without hearing or at a hearing held not later than 5 days after the filing of the motion. If the motion is granted, the Court shall set the case down for a new trial at the earliest practicable date.~~

~~(c) STAY OF EXECUTION~~stay of execution. For good cause and on appropriate terms for the opposing party's security shown as provided in section (b) of this Rule or otherwise, the Court ~~in its discretion~~ may stay the execution of a judgment upon such conditions for the security of the adverse party as are just and appropriate.

~~(d) SURRENDER OF CONTRACTS~~surrender of contracts. When a judgment is based ~~upon~~ a negotiable or non-negotiable instrument, or other contract under seal, ~~said~~the instrument or contract ~~is~~shall stand merged in the judgment and the original ~~document thereof shall~~must be surrendered to the Clerk and ~~be~~ marked "cancelled".

~~(d) ENTRY OF JUDGMENT BY CONFESSION OR CONSENT. All requests for entry of judgment by confession and judgment by consent must be submitted to the court.~~

COMMENT TO 2017 AMENDMENTS

Formerly Rule 16, this rule has been renumbered as Rule 15. This rule has also been amended consistent with the stylistic changes to the civil rules. Additionally, section (b) has been deleted, eliminating provisions that were inconsistent with Civil Rule 59, which is incorporated by Rule 2. New section (d) requires all requests for entry of judgment by confession or consent to be submitted to the court.

Rule 167. Installment ~~p~~Payment of ~~j~~Judgment.

(a) ~~ORDER OF INSTALLMENT JUDGMENT~~~~order of installment judgment~~. When a judgment is ordered paid in installments, the ~~C~~clerk ~~shall~~must furnish the judgment defendant, by ~~1st class~~ mail, with a memorandum that includes: of

(1) the dates on which the payments are due; and

(2) the amounts in which ~~such~~the payments are to be made, ~~with; and~~

(3) a warning to ~~him~~the judgment defendant that the stay of execution will be vacated upon any default ~~by on his~~the judgment defendant part, without just excuse.

(b) ~~DEFAULT ON INSTALLMENT JUDGMENT~~~~default upon installment judgment~~. ~~Upo~~On a showing, by the judgment plaintiff, ~~his or the judgment plaintiff's~~ agent or attorney, that the defendant has failed to comply with ~~such~~the order, the case ~~shall~~must be set ~~down~~ for a hearing, with reasonable notice by ~~ordinary~~ mail to the judgment defendant, to determine whether to vacate the stay of execution ~~shall be vacated~~. ~~When~~If ~~such~~the stay is vacated, or ~~when~~ no stay is granted, the judgment plaintiff ~~shall~~has~~ve~~ the right to ~~avail himself of use~~ all remedies otherwise available in the Civil ~~Division~~Actions Branch of ~~this Court~~ for the enforcement of ~~such~~the judgment.

COMMENT TO 2017 AMENDMENTS

Formerly Rule 17, this rule has been renumbered as Rule 16. This rule has also been amended consistent with the stylistic changes to the civil rules.

Rule 178. Supplementary Proceedings in Wage Claims.

~~___~~ In all cases where the judgment is ~~based~~founded, in whole or in part, on a claim for wages or personal services, the ~~judge~~court shall~~must~~, upon written or oral motion of the party obtaining judgment, order the appearance of the party against whom ~~such~~the judgment has been entered, ~~but not more often than once each 4 weeks~~, for oral examination under oath as to his or her financial status and his or her ability to pay ~~such~~the judgment. The order must not require the party against whom the judgment was entered to appear more often than once every 4 weeks. ~~and t~~The judge~~court shall~~must make ~~such~~ supplementary orders as ~~may seem~~are just and proper to effectuate the payment of the judgment upon reasonable terms, ~~provided, that the term "personal services" does not apply to a litigant whose claim is based upon professional services.~~

COMMENT TO 2017 AMENDMENTS

Formerly Rule 18, this rule has been renumbered as Rule 17. This rule has also been amended consistent with the stylistic changes to the civil rules, and the proviso in the last sentence was removed to track D.C. Code § 16-3908 (2012 Repl.).

Rule 189. ~~Limitation of allowance of a~~Attorney's ~~f~~Fees.

~~(a) IN GENERAL. No a~~Attorney's fees ~~may be~~ ~~not awarded~~~~allowed as costs~~ in an action in this ~~B~~branch unless the plaintiff's attorney ~~shall~~:

~~__ (1) provides~~Exhibit to the ~~court~~judge the instrument or agreement ~~upon which~~ ~~such~~the claim ~~for attorney's fees~~ is based;

~~__ (2) certifies~~y in writing that the fee claimed is payable only and entirely to him ~~or her~~;

and
~~__ (3) certifies in writing~~ that he ~~or she~~ has no agreement with the plaintiff and will ~~not make~~enter none ~~whereby that will make~~ any part of ~~such~~the attorney's fees ~~will be~~ payable to anyone other than ~~such~~the attorney.

~~(b) LIMITATION ON ATTORNEY'S FEES. Except for exceptional circumstances made known to the judge in open court, a~~Attorney's fees ~~awarded under this rule in this Branch~~ may not ~~be allowed in an amount~~ exceeding 15 percent of the plaintiff's recovery ~~unless the plaintiff establishes exceptional circumstances.~~

COMMENT TO 2017 AMENDMENTS

Formerly Rule 19, this rule has been renumbered as Rule 18. This rule has also been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 1. Judge as Arbitrator

 The judge sitting in this ~~B~~branch ~~may~~shall hold himself ready to serve as ~~referee or~~ arbitrator, either alone or in conjunction with other persons, ~~as provided by law or rule~~ appointed by the court. ~~The P~~procedure shall~~must~~ be as provided by D.C. Code § 11-1322 (2012 Repl.), or ~~u~~pon written stipulation between the parties or their counsel. Fees ~~are as set forth shall be charged~~ in ~~accordance with Superior Court Rule of Civil Procedure~~Civil Rule 202. The ~~C~~court, in its discretion, may waive or reduce the fees or require them to be deposited in advance in the court registry ~~of the Court~~.

COMMENT TO 2017 AMENDMENTS

 This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 2. Consent to Arbitration

___ All persons ~~requesting~~desiring an arbitration ~~shall~~must sign a consent ~~which shall~~that contains ~~the name(s) or names~~ of the arbitrator ~~(s) or arbitrators~~, a brief ~~statement of the matter to be decided~~recital of the nature of the controversy to be determined, and a statement that they will abide by these ~~R~~rules and the arbitrator's award. The consent ~~shall~~must be filed with the ~~C~~clerk of this ~~B~~bbranch.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 3. Hearing; Taking Evidence; Additional Fees

~~___~~ The arbitrator~~(s) or arbitrators shall forthwith~~ must promptly set fix a time to hear the controversy. ~~He or they~~ Arbitrators shall not be ~~are not~~ bound by the ~~law~~ rules of evidence, but may receive ~~such~~ evidence in any way determined by the arbitrator(s) to be as seems equitable and proper. ~~Either or both~~ The parties may be represented by counsel. ~~No expense shall be~~ Arbitrators may not charge the parties for incurred any expenses by the arbitrators, except ~~upon~~ with the parties' written consent ~~in writing of the parties.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 4. Withdrawing from Arbitration

After the ~~1st~~ hearing has commenced, ~~neither no~~ party may withdraw from the arbitration unless:

(1) ~~both all parties consent parties consent, or and~~ the arbitrator approves; or
(2) the arbitrator ~~(s) or arbitrators~~ directs a termination discontinuance of the proceedings.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 5. Written Award

~~___~~ The arbitrator~~(s) or arbitrators shall~~ must ~~make his or their~~ issue the award in writing and promptly file ~~it the same forthwith,~~ together with ~~his or their~~ any opinion, ~~if any,~~ with the ~~Clerk of this Branch,~~ furnishing ~~A~~ a copy will be provided thereof to each party, ~~or his counsel.~~

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 6. Recording the Award

 The ~~C~~lerk ~~shall~~must record the award in the docket records of this Branch.

COMMENT TO 2017 AMENDMENTS

 This rule has been amended consistent with the stylistic changes to the civil rules.

Conciliation Rules 1-4. [Deleted].

COMMENT TO 2017 AMENDMENTS

The conciliation rules have been deleted as unnecessary based on the establishment of the Multi-Door Dispute Resolution Division. Conciliation efforts are still mandatory under D.C. Code § 16-3906 (2012 Repl.).

Conciliation Rule 1. Availability of Conciliation

~~—The judge sitting in this Branch shall hold himself ready to conciliate the differences of the parties to any dispute or controversy, whether pending in a court or not, irrespective of the amount involved, and including actions or disputes concerning the recovery of the possession of real estate, arrears of rent, and recovery of personalty. Fees shall be charged in accordance with Superior Court Rule of Civil Procedure 202. The Court in its discretion may waive or reduce fees or require them to be deposited in advance in the registry of the Court.~~

Conciliation Rule 2. Conciliation Upon Application of 1 Party

(a) Any person having a claim which in his opinion may be adjusted without resort to court action may apply to the judge of this Branch for the issuance of a notice of conciliation.

(b) If it shall seem to the judge that such claim would lend itself to conciliation, he shall cause a notice to be sent by ordinary or certified mail to the adverse party at the address given by the applicant. At least 3 days notice shall be given, exclusive of the day of mailing.

(c) The hearing shall be held in this Branch. Such a controversy shall be heard informally. The judge shall endeavor to effect an amicable and equitable adjustment between the parties. He shall not be bound by the rules of evidence and shall endeavor to search out the right of the matter and to guide the parties to an amicable and equitable settlement of the controversy. Either or both parties may be represented by counsel.

(d) The Clerk of the Branch shall keep a record of the proceedings had in such conciliation case, and shall, at the direction of the judge, record in the records of this Branch, the amount or basis of conciliation decided upon under the agreement of the parties.

~~Conciliation Rule 3. Conciliation Where All Parties Appear Together Voluntarily~~

~~(a) Parties appearing together voluntarily may submit their controversy to the judge of this Branch for conciliation without the issue of any notice.~~

~~(b) When such parties have appeared, and submitted their dispute for conciliation, the proceedings shall be governed by Rule 2, sections (c) and (d) of these Conciliation Rules.~~

Conciliation Rule 4. Conciliation of Cases Certified by a Judge of the Superior Court

(a) ~~The judge sitting in this Branch shall accept on certification from any judge of the Superior Court any case referred to him for conciliation, or for the purposes of endeavoring to obtain a complete or partial agreed statement of facts or stipulation, which may or will simplify and expedite the ultimate trial of the case. He may, with the consent of all parties, complete the trial of such case in said Branch; without such consent, he shall recertify the case to another judge of the Court for trial.~~

(b) ~~In so recertifying a case, he shall report whether the conciliation or pretrial proceeding has succeeded, and if so to what extent; and to what extent the issues have been narrowed or reduced; what facts have been conceded; what documents have been admitted; and what stipulations have been agreed upon by the parties or their counsel.~~