

Rule 113. Rule to show cause for recovery of possession of property of the estate.

(a) Petition for Rule to Show Cause.

When it is believed that any person is in possession of assets, papers, data or information of or about the decedent's estate and is wrongfully withholding the same, a Petition may be filed for a Rule to Show Cause, directing such person to appear and show cause why such person should not disclose all of the assets, papers, data and information in such person's possession belonging to the estate and the location of the same and why such person should not be required by the Court to turn over all of the said assets, papers, data and other information to the personal representative, provide access to property or take such other action as ordered by the Court.

(b) Content of the Petition.

In addition to any other information required to be submitted to the Court under this Rule, the Petition shall set forth with particularity the following facts, points, and authorities: (1) a concise description of the asset, papers, data, or other information concerning the decedent's estate that is alleged to be wrongfully withheld by the individual named in the petition; (2) the name, address, telephone number and any other pertinent identifying information about the individual whose actions are to be subject to the order to show cause; (3) a statement of the jurisdiction of the Superior Court over the subject matter and such person; (4) the facts and law that would establish the right of the estate to demand production of the subject asset, paper, data or other information (including but not limited to its alleged connection to the assets of the estate or its relevance to the administration of the estate); (5) a concise demand for relief, such as production of a particular asset or data, reimbursement of monies to the estate, or other specific relief; and (6) any other information that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s) if any why any of the foregoing information is not supplied.

(c) Good faith effort -- Certification of petitioner.

The Petition for Rule to Show Cause shall contain the petitioner's certificate that despite a good faith effort the petition has been unable to obtain the assets, papers, data and information sought. The certification shall set forth specific facts describing the good faith effort.

(d) Who may petition the Court.

The personal representative may file a petition hereunder. Any interested person may also file a petition hereunder against the personal representative and such petition shall suffice as an "application" for relief, as permitted in *D.C. Code § 20-107*.

(e) Form of order.

The Court may grant the Petition for Rule to Show Cause without waiting for any response to the Petition by executing an Order for Rule to Show Cause substantially in the following form:

In Re: ..... No. ....

ORDER FOR RULE TO SHOW CAUSE

Upon consideration of the Petition of ..... (personal representative) herein, filed the .... day of ....., 199..,

ORDERED, that ..... shall appear in this Court at .... A.M./P.M. in Courtroom No. ...., on the .... day of ....., 199.., and show cause, if any there be, why he/she/or it should not disclose all the assets, papers, data and information he/she/or it has in his/her/or its possession belonging to the above estate and the location of the same, and why he/she/or it should not be required by this Court to turn over all of the said assets, papers, data and other information to the personal representative of this estate, provide access to property or take such other action as ordered by the Court, PROVIDED, however, that a copy of said Petition and this Order is served upon him/her/or it by petitioner on or before the .... day of ....., 199.. in accordance with SCR-Civil 4(c) and it is further

ORDERED that if ..... fails to appear on the date set in this Order, the Court may grant the relief requested in the petition without further notice.

.....  
Judge

Copies to:

Petitioner (address)

Interested Persons (address)

(f) Service of the petition and order.

Upon the issuance of an order to show cause, service of a copy of the order and a copy of the petition shall be made as follows: A copy of the petition and order shall be served upon the person allegedly in possession of the material sought in the manner prescribed by SCR-Civil 4(c). All interested persons shall be served by first class mail. Neither the personal representative nor any of the interested persons shall effect service upon the person allegedly in possession of the sought material.

(g) Proof of service.

Proof of service of the Petition and Order for Rule to Show Cause shall be by affidavit filed no later than the time set by the order for cause to be shown.

(h) Response to Order for Rule to Show Cause.

The person on whom the Petition and Order for Rule to Show Cause is served may file a responsive pleading to the Petition at any time, up to the date therein specified for cause to be shown. If the responsive pleading asserts a plea of title, the Court may treat the Petition for Rule to Show Cause as a complaint, provided the petitioner pays the complaint filing fee within ten (10) days, and may hold a status conference on the date set for cause to be shown and enter such other orders therein pertaining to interested persons and indispensable parties as are just in accordance with SCR-PD 107(b).

**COMMENT:**

If the Petition is treated as a complaint, a jury demand must be made seasonably pursuant to SCR-Civil 38(b) and 39(b). (Added, Oct. 22, 1996, eff. Feb. 1, 1997.)