

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**RULE PROMULGATION ORDER 19-01**

(Amending Super. Ct. Civ. R. 54-II and 77)

**WHEREAS**, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved an amendment to Superior Court Rule of Civil Procedure 54-II and a conforming amendment to Superior Court Rule of Civil Procedure 77; and

**WHEREAS**, pursuant to D.C. Code § 11-946, the amendments do not substantively modify the federal rules; it is

**ORDERED**, that Superior Court Rules of Civil Procedure 54-II and 77 are hereby enacted and amended as set forth below; and it is further

**ORDERED**, that the amendments shall take effect immediately and shall govern all proceedings thereafter commenced and insofar is just and practicable all pending proceedings.

## **Rule 54-II. Waiver of Costs, Fees, or Security**

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(b) PUBLIC BENEFITS. If an applicant receives Temporary Assistance for Needy Families, General Assistance for Children, Program on Work, Employment, and Responsibility, or Supplemental Security Income, the court or the clerk must grant the application without requiring additional information from the applicant.

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### **COMMENT TO 2019 AMENDMENTS**

Section (b) was amended to permit the clerk to grant applications when the applicant receives Temporary Assistance for Needy Families, General Assistance for Children, Program on Work, Employment, and Responsibility, or Supplemental Security Income.

### **COMMENT TO 2017 AMENDMENTS**

Section (i) has been amended to clarify and limit the types of service that the court is required to undertake on behalf of *in forma pauperis* litigants. Generally, the court will attempt service of the complaint and related materials by registered or certified mail, return receipt requested, or by first-class mail with notice and acknowledgment. By motion, the court may appoint a process server to serve witness subpoenas or to serve a complaint and related materials on an incompetent or minor defendant as required by statute.

By limiting the types of service and reducing corresponding costs, the court also helps to limit the *in forma pauperis* litigant's potential liability where "[c]osts may be assessed against a party proceeding *in forma pauperis* at the conclusion of an unsuccessful suit." *Robinson v. Howard University*, 455 A.2d 1363, 1367 (D.C. 1983). Additionally, these amendments address a concern first raised in *Atherton v. Brooks*, 728 A.2d 1195 (D.C. 1999), in which the District of Columbia Court of Appeals opined that the language in Rule 54-II related to the waiver of prepayment of witness fees could be interpreted as imposing a corresponding obligation on the trial court to serve witness subpoenas—"an administrative burden" that might not have been considered when the rule was adopted.

## **Rule 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment**

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### **(c) CLERK'S OFFICE HOURS; CLERK'S ORDERS.**

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(2) *Orders.* Subject to the court's power to suspend, alter or rescind the clerk's action for good cause, the clerk may:

(A) issue process;

(B) grant applications under Rule 54-II(b);

(CB) enter a default;

(DG) enter a default judgment under Rule 55(b)(1); and

(ED) act on any other matter that does not require the court's action.

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### **COMMENT TO 2019 AMENDMENTS**

Subsection (c)(2) was amended to reflect the amendment to Rule 54-II, which now permits the clerk to grant applications when the applicant receives Temporary Assistance for Needy Families, General Assistance for Children, Program on Work, Employment, and Responsibility, or Supplemental Security Income.

### **COMMENT TO 2017 AMENDMENTS**

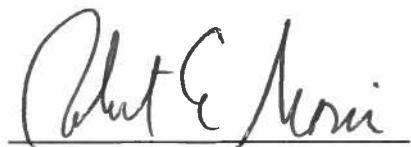
This rule is substantially similar to *Federal Rule of Civil Procedure 77*, as amended in 2007, but maintains the following local distinctions: 1) "Superior Court" has been substituted for "district courts" and "District of Columbia" for "district" where appropriate; 2) the language in subsection (c)(1) has been modified to reflect local practice, including the Chief Judge's authority to set the hours of the clerk's office and the practice of posting the hours on the Superior Court's website; and 3) in section (d), "District of Columbia Court of Appeals Rules" has been substituted for "Federal Rule of Appellate Procedure (4)(a)." Also, the 2014 federal amendment that updated a cross-reference in subsection (c)(1) has not been incorporated because the cross-reference was previously omitted.

New subsection (c)(1) replaces Rule 77-I. The new language in subsection (c)(1) regarding the hours posted on the Superior Court's website allows some flexibility for the Chief Judge to change the hours of operation in case of emergency or otherwise.

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By the Court:

Date: 5/7/19



Robert E. Morin  
Chief Judge

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