RULES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS

(Revised effective December 1, 2021)

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TITLE I. INTRODUCTION

Rule 1. Title and Scope of Rules; Definitions.

(a) Title and Scope of Rules.

(1) These rules, to be known as the Rules of the District of Columbia Court of Appeals, govern procedure in the District of Columbia Court of Appeals.

(2) When these rules provide for filing a motion or other document in the Superior Court of the District of Columbia, the procedure must comply with the practice of the Superior Court.

(b) Definitions. As used in these Rules:

(1) The term "affidavit" means either a declaration made under oath or a declaration conforming to 28 U.S.C. § 1746.

(2) The term "agency" means the Mayor as defined by D.C. Code § 2-502, or any subordinate or independent agency as defined by D.C. Code §§ 2-502(3) through (5).

(3) The term "appeal" means any proceeding in this court initiated by a notice of appeal, a petition for review, or a recommendation from the Board on Professional Responsibility for disciplinary action against a member of the Bar.

(4) The terms "appellant" and "appellee" are synonymous with petitioner and respondent, respectively.

(5) The term "calendar days" includes Saturdays, Sundays, and legal holidays.

(6) The term "Clerk" means the Clerk of the District of Columbia Court of Appeals unless otherwise described.

(7) The term "costs" means those amounts other than fees, whether paid to the Superior Court or to a third party, that are necessary for prosecution of an appeal before this court.

(8) The term "court" means the District of Columbia Court of Appeals, unless otherwise described.

(9) The term "Court Reporting Division" means the Court Reporting and Recording Division of the District of Columbia Courts.

(10) The term "division" means a panel of three judges of the District of Columbia Court of Appeals. See D.C. Code § 11-705.

(11) The term "Family Court" means the Family Court of the Superior Court of the District of

Columbia.

(12) The term “fees” means the amount charged by this court or the Superior Court for the filing of a notice of appeal, a petition for review, an application for allowance of appeal, or a petition for extraordinary relief.

(13) The term “Form __” means a Form from the Appendix of Forms accompanying these rules.

Rule 2. Seal.

The Clerk is the custodian of the seal, which is the means of authentication of all process, orders, and other documents requiring authentication by the court.

Rule 2.1. Suspension of Rules.

On its own or a party's motion, the court may–to expedite its decision or for other good cause–suspend any provision of these rules in a particular matter and other procedures as it directs, except as otherwise provided in Rule 26(b).

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS OF THE SUPERIOR COURT

Rule 3. Appeal as of Right — How taken.

(a) Filing the Notice of Appeal.

(1) An appeal permitted by law as of right from the Superior Court, including an expedited appeal, may be taken only by filing a notice of appeal with the Clerk of the Superior Court within the time allowed by Rule 4. Except as provided in Rule 4(d), filing will not be deemed timely unless the notice is, in fact, received by the Superior Court Clerk within the prescribed time. If a timely notice of appeal is filed by a party, any other party to the proceeding in the Superior Court may file a notice of appeal within the time prescribed by Rule 4.

(2) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the Court of Appeals to act as it considers appropriate, including dismissal of the appeal.

(3) An appeal from an order or judgment of a magistrate judge may be taken only after an associate judge of the Superior Court has reviewed the order or judgment. See D.C. Code § 11-1732(k) and Super. Ct. Civ. R. 73(c).

(b) Joint or Consolidated Appeals.

(1) When two or more parties are entitled to appeal from a judgment or order of the Superior Court, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the Court of Appeals, upon its own motion or upon motion of a party.

(3) When more than one appeal is docketed in the Court of Appeals from the same judgment or order and a single record on appeal has been prepared in accordance with Superior Court rules, the Clerk will maintain the record in the Clerk's file bearing the lowest appeal number.

(c) Contents of the Notice of Appeal.

(1) The notice of appeal must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X"; and

(B) designate the judgment—or the appealable order—from which the appeal is taken.

(2) The notice of appeal must be signed by the individual appellant or by counsel for the appellant. If the appellant is a corporation or other entity, the notice must be signed by counsel. A notice of appeal not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party. A pro se notice of appeal is considered filed on behalf of the signer and (if they are parties) the signer's spouse and minor children, unless the notice clearly indicates otherwise.

(3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

(4) The notice of appeal encompasses all orders that for purposes of appeal merge into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal.

(5) In a civil case, a notice of appeal encompasses the final judgment, whether or not that judgment is set out in a separate document under Superior Court Rule of Civil Procedure 58, if the notice designates:

(A) an order that adjudicates all remaining claims and the rights and liabilities of all remaining claims and the rights and liabilities of all remaining parties; or

(B) an order described in Rule 4(a)(4)(A).

(6) An appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is so limited. Without such an express statement, specific designations do not limit the scope of the notice of appeal.

(7) An appeal may not be dismissed for informality of form or title of the notice of appeal, for failure to name a party whose intent to appeal is otherwise clear from the notice, or for failure to properly designate the judgment if the notice of appeal was filed after entry of the judgment and designates an order that merged into that judgment.

(8) Parties are encouraged to use Form 1 in filing all but criminal appeals and Form 2 in criminal appeals, though the use of a particular form is not required. An appeal may be dismissed if, after notice, the party or parties taking the appeal fail to provide the information requested by Form 1 or Form 2.

(d) Serving the Notice of Appeal.

(1) The Clerk of the Superior Court must serve a copy of any notice of appeal on each party's counsel of record — excluding the appellant's — or, if a party is proceeding pro se in accordance with Superior Court rules. When a defendant in a criminal case appeals, the Clerk of the Superior Court must also serve a copy of the notice of appeal on the defendant, either by personal service or by mail or email addressed to the defendant at the defendant's last known address. The Clerk of the Superior Court must promptly send a copy of the notice of appeal and of the docket entries

to the Clerk of the Court of Appeals. The Clerk of the Superior Court must note on the copy the date when the notice was filed.

(2) If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4(d), the Clerk of the Superior Court must also note the date when the Clerk docketed the notice.

(3) The failure of the Clerk of the Superior Court to serve notice does not affect the validity of the appeal. That Clerk must transmit to the Clerk of the Court of Appeals the names of the parties to whom copies have been sent and the date of sending. Service is sufficient despite the death of a party or of the party's counsel.

(e) Payment of Fees. Upon filing a notice of appeal, the appellant must pay the Clerk of the Superior Court all required fees, unless granted a waiver of fees, costs, or security. See Rule 24.

Rule 4. Appeal as of Right — When taken.

(a) Appeal in a Civil Case.

(1) Time for Filing a Notice of Appeal. The notice of appeal in a civil case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from which the appeal is taken unless a different time is specified by these Rules or the provisions of the District of Columbia Code. See, for example, D.C. Code § 17-307(b) (small claims). An appeal from an order granting or denying an application for a writ of error coram nobis is an appeal in a civil case for purposes of Rule 4(a).

(2) Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry.

(3) Multiple Appeals. If one party files a timely notice of appeal, any other party to the proceeding in the Superior Court may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed, or within the time otherwise prescribed by Rule 4(a)(1), whichever period ends later.

(4) Effect of a Motion on a Notice of Appeal.

(A) If a party timely files in the Superior Court any of the following motions under the rules of the Superior Court, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

(i) for judgment as a matter of law;

(ii) to amend or make additional factual findings, whether or not granting the motion would alter the judgment;

(iii) to vacate, alter, or amend the order or judgment;

(iv) for a new trial; or

(v) for relief from a judgment or order if the motion is filed no later than 10 days (computed using Superior Court Rule of Civil Procedure 6(a)) after the judgment is entered.

(B)(i) The time for filing a notice of appeal fixed by this section runs from the entry on the Superior Court docket of an order fully disposing of any of the foregoing motions, except that if any such order is conditioned on acceptance of a remittitur by any party, the time runs from the date on which a judgment based on acceptance of the remittitur is entered. Any statement accepting or rejecting a remittitur must be filed in the Superior Court and served on all other parties.

(ii) If a party files a notice of appeal after the court announces or enters a judgment — but before it disposes of any motion listed in Rule 4(a)(4)(A) — the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

(iii) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(4)(A), or a judgment altered or amended upon such a motion, must file a notice of appeal — in compliance with Rule 3(c) — within the time prescribed by this rule measured from the entry of the order disposing of the last such remaining motion.

(5) Extension of Time.

(A) The Superior Court may extend the time for filing the notice of appeal if:

(i) a party files the notice of appeal no later than 30 days after the time prescribed by Rule 4(a) expires; and

(ii) that party shows excusable neglect or good cause.

(B) A request for extension of time made before the expiration of the time prescribed in Rule 4(a)(1) or (3) may be ex parte unless the court requires otherwise. If the request is made after the expiration of the prescribed time, it must be by motion and provide such notice to the other parties as the court deems appropriate.

(6) Entry Defined. A judgment or order is entered for purposes of this rule when it is entered in compliance with the rules of the Superior Court. When a judgment or final order is signed or decided outside the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the docket reflecting service of notice by that Clerk.

(7) Reopening Time to Appeal. The Superior Court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

(A) the court finds that the moving party did not receive notice under Superior Court Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;

(B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Superior Court Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and

(C) the court finds that no party would be prejudiced.

(b) Appeal in a Criminal Case.

(1) Time for Filing a Notice of Appeal. A notice of appeal in a criminal case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from which the appeal is taken, unless a different time is specified by the provisions of the District of Columbia Code.

(2) Filing Before Entry of Judgment. A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry. If a notice of appeal filed after verdict is not followed by the entry of a judgment, the appeal is subject to dismissal at any time for lack of jurisdiction.

(3) Effect of a Motion on a Notice of Appeal.

(A) If a defendant timely makes any of the following motions under the Superior Court Rules of Criminal Procedure, the notice of appeal from a judgment of conviction must be filed within 30 days after the entry of the order disposing of the last such remaining motion, or within 30 days after the entry of the judgment of conviction, whichever period ends later. This provision applies to a timely motion:

(i) for judgment of acquittal under Rule 29;

(ii) for a new trial under Rule 33, but if based on newly discovered evidence, only if the motion is made no later than 30 days after the entry of the judgment; or

(iii) for arrest of judgment under Rule 34.

(B) A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the court disposes of any of the motions referred to in Rule 4(b)(3)(A) — becomes effective upon the later of the following:

(i) the entry of the order disposing of the last such remaining motion; or

(ii) the entry of the judgment of conviction.

(C) A valid notice of appeal is effective — without amendment — to appeal from an order disposing of any of the motions referred to in Rule 4(b)(3)(A).

(4) Motion for Extension of Time. Upon a finding of excusable neglect or good cause, the Superior Court may — before or after the time has expired, with or without motion and notice — extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by Rule 4(b).

(5) Entry Defined. A judgment or order is deemed to be entered within the meaning of this subdivision when it is entered on the criminal docket by the Clerk of the Superior Court. When a

judgment or final order is signed or decided out of the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the criminal docket reflecting the transmission of notice of judgment or order.

(c) Appeal by an Inmate Confined in an Institution.

(1) If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 4(d)(1). If an inmate files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(A) it is accompanied by:

(i) a declaration in compliance with 28 U.S.C. § 1746–or a notarized statement–setting out the date of deposit and stating that first-class postage is being prepaid; or

(ii) evidence (such as a postmark or date stamp) showing that the notice was deposited and that postage was prepaid; or

(B) the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 4(d)(1)(A)(i).

(2) If an inmate files the first notice of appeal under this Rule 4(d), the 14-day period provided in Rule 4(a)(3) for another party to file a notice of appeal runs from the date when the Superior Court dockets the first notice.

(d) Mistaken Filing in the Court of Appeals. If a notice of appeal is submitted to this court, the Clerk must note on the notice the date when it was received and send it to the Clerk of the Superior Court. The notice is then considered filed in the Superior Court on the date so noted.

(e) Remand to the Superior Court. When a case is pending in this court, and the Superior Court has indicated its intention to grant a motion that will alter or amend the order, decision, judgment, or sentence that is the subject of the appeal, the movant must notify the Court of Appeals, and any party may request a remand of the case for that purpose by filing in this court a motion to remand the case stating the trial judge's intention. See Rule 41(e).

Rule 5. Appeals by Permission Pursuant to D.C. Code § 11-721(d).

(a) Application for Permission to Appeal.

(1) To request permission to appeal from a ruling or order in a civil case not otherwise appealable, a party must file an application for permission to appeal. The application may not exceed 20 pages, excluding any attachments or statements required by this rule, and must be filed with the Clerk of this court with proof of service on all other parties to the action. The application must also conform to the requirements of Rule 27(d)(1) and (5).

(2) The application must be filed within 10 days after the entry of the order of the Superior Court, as required by D.C. Code § 11-721(d).

(3) The Clerk will not accept the application for filing unless the ruling or order sought to be appealed contains the statement of the trial judge referred to in D.C. Code § 11-721(d). The trial judge may amend the order at any time to include the prescribed statement, and permission to appeal may be sought within 10 days after entry of the amended order.

(b) Contents of the Application; Response; Oral Argument.

(1) The application must include the following:

(A) the facts necessary to an understanding of the controlling question of law determined by the order of the Superior Court;

(B) the question itself;

(C) the reasons why a substantial basis exists for a difference of opinion on the question and why an immediate appeal may materially advance the termination of the litigation; and

(D) a copy of the order from which the appeal is sought and any findings of fact, conclusions of law, and opinion relating thereto.

(2) A party may file a response within 7 days after service of the application.

(3) The application and response will be submitted without oral argument unless the court orders otherwise.

(c) Stay of Proceedings in the Superior Court. An application, filed in this court, for an appeal under this rule will not stay the proceedings in the Superior Court unless the judge of that court who made the ruling or order, or this court or a judge thereof, so orders.

(d) Grant of Permission. If permission to appeal is granted, the order granting permission will be treated as the notice of appeal, and the time fixed by Rules 10 through 12 will run from the filing date of the order. A separate notice of appeal will not be required; the provisions of Rule 14 will

not apply.

Rule 6. Appeals by Application Pursuant to D.C. Code § 11-721(c) and § 17-301.

(a) Application for Allowance of Appeal.

(1) The application for the allowance of an appeal must be filed with the Clerk of this court with proof of service on all other parties to the action. See Form 3 and Form 4.

(2) The application must be filed within 3 days after entry of the judgment or order of a Superior Court Judge, as defined in Rule 4(a)(6). See D.C. Code § 17-307; Super. Ct. Civ. R. 73(b). A judgment or order is deemed to be entered within the meaning of this subdivision when it is entered on the docket by the Clerk of the Superior Court. When a judgment or final order is signed or decided out of the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing an application for the allowance of an appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the docket reflecting the transmission of notice. See Rule 26(a) (Computing Time). The application is deemed filed, for the purpose of determining whether it is timely, when the application is received by the Clerk of this court, not when it is transmitted.

(3) The application must be signed by the individual applicant or counsel. If the applicant is a corporation or other entity, the application must be signed by counsel. An application not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party.

(b) Contents of the Application and Response.

(1) The application must include the following:

(A) a statement of the proceedings and evidence sufficient to present the ruling or rulings sought to be reviewed;

(B) a statement of why the trial court erred or why the appeal presents a question of law which has not been but should be decided by this court.

(2) The application may include a statement of the points and authorities relied upon.

(3) A party may file a response within 3 days of service of the application.

(c) Statement of Proceedings and Evidence. If this court determines that the application and any response are insufficient for it to act upon the application, it may

(1) require the record and exhibits to be transmitted to this court; and, if necessary,

(2) call for a statement of proceedings and evidence from the trial judge.

(d) Granting the Application.

(1) One judge of a three judge division may grant the application.

(2) If the application is granted, it will be treated as the notice of appeal, and the Clerk must transmit to the Clerk of the Superior Court a notice of the granting of the appeal together with a copy of the application and response thereto. The time fixed by Rules 10 through 12 will run from the date of the order granting the application.

(e) Effect of Denial of Application. Denial of the application is an affirmance of the judgment of the Superior Court.

(f) Petition for Reconsideration.

(1) A petition for reconsideration of the denial of an application may be filed within 7 days of the denial.

(2) The petition will be considered by the three judges to whom the application was submitted, and no petition for en banc consideration may be filed.

Rule 7. Bond for Costs on Appeal in a Civil Case.

For good cause, the court may require an appellant to file a bond or provide other security in a form and amount necessary to ensure payment of costs on appeal; otherwise, no security for costs is required. Rule 8(b) applies to a surety on a bond given under this rule.

Rule 8. Stay or Injunction Pending Appeal.

(a) Motion for Stay.

(1) Initial Motion in the Superior Court. A party must ordinarily move first in the Superior Court for the following relief:

(A) a stay of the judgment or order;

(B) approval of a supersedeas bond; or

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.

(2) Motion in the Court of Appeals. A motion for the relief mentioned in Rule 8(a)(1) may be made to this court.

(A) The motion must:

(i) show that moving first in the Superior Court would be impracticable; or

(ii) state that, a motion having been made, the Superior Court denied the motion or failed to afford the relief requested, and state any reasons given by the Superior Court for its action.

(B) The motion must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record, including the judgment or order being appealed.

(C) The moving party must give reasonable notice of the motion to all parties. If a ruling is requested before the normal time for responses will expire, the parties must comply with Rule 25.1 (b)(1) (Emergency Cases).

(D) A motion under Rule 8(a)(2) must be filed with the Clerk and normally will be considered by a division of the court. In an exceptional case in which time requirements make that procedure impracticable, the motion may be submitted by the Clerk to a single judge of the court for consideration and interim ruling.

(b) Bond or Other Security.

(1) To preserve the status or rights of parties until the appeal is concluded, the court may impose any condition it determines necessary to prevent irreparable injury. The court may condition relief on a party's filing a bond or other appropriate security in the Superior Court. Upon motion for

cause shown, the court may also alter the amount of the bond fixed by the trial court, or may fix a bond in the event the trial court has refused to do so.

(2) If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Superior Court and irrevocably appoints the Clerk of that court as the surety's agent on whom any documents affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the Superior Court without the necessity of an independent action. The motion and any notice the Superior Court prescribes may be served on the Clerk of the Superior Court, who must promptly transmit a copy to each surety whose contact information is known.

(c) Stay in a Criminal Case. Rule 38 of the Superior Court Rules of Criminal Procedure governs a stay in a criminal case.

Rule 9. Release or Detention in a Criminal Case.

The Superior Court must state in writing, or orally on the record, the reasons for any order detaining a defendant in a criminal case. If the Superior Court orders the release of a defendant and the prosecution indicates an intent to appeal that decision, the judge must state reasons for the action taken. A request for relief by this court from an order of detention must be accompanied by an affidavit executed by the party or attorney requesting the relief, addressing each point enumerated in Form 6. Additionally:

(a) Release or Detention Before Judgment of Conviction. A party appealing from an order regarding detention or release before a judgment of conviction must follow the procedures stated in Rule 25.1(b)(1) (Emergency Cases). Following reasonable notice to the appellee, the court will determine the appeal promptly on the basis of the filings and parts of the record that the parties present or the court requires. In appropriate cases, the court may order oral argument on an emergency basis.

(b) Release or Detention After Judgment of Conviction. A party requesting review of an order regarding release or detention after a judgment of conviction, including orders granting or denying compassionate release, must file a notice of appeal from that order in the Superior Court, or a motion in this court if the party has already filed a notice of appeal from the judgment of conviction. The party must then follow the relevant procedures stated in Rule 25.1(c)(1) (Expedited Cases). The documents filed must include a copy of the judgment of conviction.

Rule 10. The Record on Appeal.

(a) Composition of the Record on Appeal. The following items constitute the record on appeal and should be stored in or accessible from the Superior Court in electronic format:

(1) all documents and exhibits filed in the Superior Court;

(2) the transcript of proceedings, if any; and

(3) a certified copy of the docket entries prepared by the Clerk of the Superior Court.

(b) The Transcript of Proceedings.

(1) Appellant's Duty to Order. Within 10 days after filing the notice of appeal, the appellant, unless proceeding on appeal as specified in Rule 10(b)(5), must:

(A) order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary, and identify for the Court Reporting Division any transcript already prepared that is to be included in the record on appeal; or

(B) file a certificate in this court stating that no transcript will be ordered.

(2) Unsupported Finding or Conclusion. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to that finding or conclusion.

(3) Partial Transcript. Unless the entire transcript is ordered:

(A) the appellant must, within the 10 days provided in Rule 10(b)(1) — file a statement of the issues that the appellant intends to present on the appeal and must serve on all other parties a copy of both the transcript order or certificate required by Rule 10(b)(1) and the statement;

(B) if any other party considers it necessary to have a transcript of other parts of the proceedings, it must, within 10 days after service of the transcript order or certificate and statement of the issues, file and serve on the appellant a designation of additional parts to be ordered; and

(C) unless within 10 days after service of that designation the appellant has ordered all such parts, and has so notified the other parties, the designating party may within the following 10 days either order the parts or move in the Superior Court for an order requiring the appellant to do so.

(4) Payment. At the time of ordering, a party must make satisfactory arrangements with the Court Reporting Division for paying the cost of the transcript, except when the party is proceeding under Rule 10(b)(5).

(5) Transcript in Appeals Proceeding with Waiver of Fees, Costs, or Security, Under the Criminal Justice Act, or Under the Prevention of Child Abuse and Neglect Act.

(A) In all civil cases in which the appellant has been granted a waiver of fees, costs, or security under Rule 24, except those governed by Rule 10(b)(5)(C), a request for the preparation of transcripts must be made, on motion with notice, to the appropriate motions or trial judge. See Rule 24(h); D.C. Code § 15-712(h).

(B) In all cases in which the appellant has been permitted to proceed in the Superior Court under the Criminal Justice Act, see D.C. Code § 11-2601 et seq., the notice of appeal will be considered by the Superior Court as encompassing an order for the preparation of the reporter's transcript at the expense of the government. A copy of the notice and of the docket entries will be transmitted by the Clerk of the Superior Court to the Court Reporting Division for preparation of the transcript. The transcript prepared will include pretrial hearings on motions, voir dire, openings, the testimony and evidence presented by the parties, closings, the charge to the jury, the verdict, and sentencing, as well as any other proceeding in the case designated by counsel pursuant to Rule 10(b)(1)(A).

(C) In cases where counsel for the appellant has been appointed under the Prevention of Child Abuse and Neglect Act, see D.C. Code § 16-2304, counsel must complete a transcript request form for the preparation of transcripts which is available on the Superior Court's website and submit the form to the Court Reporting Division.

(c) Statement of the Evidence When The Proceedings Were Not Recorded or When a Transcript is Unavailable. If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served upon all other parties, who may serve objections or proposed amendments within ten days after being served. The statement and any objections or proposed amendments must then be submitted to the trial judge for settlement and approval. As settled and approved, the statement must be included by the Clerk of the Superior Court in the record on appeal.

(d) Correction or Modification of the Record.

(1) If any difference arises about whether the record truly discloses what occurred in the Superior Court, the difference must be submitted to and settled by that court and the record conformed accordingly.

(2) If anything material to any party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

(A) on a stipulation of the parties; or

(B) by the Superior Court before or after the record has been forwarded.

(3) All other questions as to the form and content of the record must be presented to this court.

Rule 11. Transmission of the Record.

(a) Appellant's Duty. An appellant filing a notice of appeal must comply with Rule 10(b) and applicable Superior Court rules and orders, and must do whatever else is necessary to enable the Clerk of the Superior Court to prepare and transmit the record electronically.

(b) Duties of Reporter, Director of the Court Reporting Division, and Clerk of the Superior Court.

(1) Reporter's Duty to Prepare and File a Transcript. The reporter must prepare and file a transcript as follows:

(A) Upon receiving an order for a transcript for purposes of an appeal, the reporter must note the date of its receipt and the expected completion date and transmit the order and this information to the Clerk of the Superior Court.

(B) If the transcript cannot be completed within 60-day of the reporter's receipt of the order, the reporter may request that this court grant additional time to complete it. The Clerk must note on the docket the action taken and notify the parties.

(C) When a transcript is complete, the reporter must file it with the Director of the Court Reporting Division.

(2) Duties of the Director of the Court Reporting Division. If all transcripts ordered or designated for appeal have not been completed within the 60-day time period, the Director of the Court Reporting Division must retain the partial transcript until the transcription of all proceedings has been completed. When completed, the transcript must be placed in chronological sequence and filed with the Clerk of the Superior Court.

(3) Duties of the Clerk of the Superior Court.

(A) When the record is complete, the Clerk of the Superior Court must prepare an index that reasonably identifies and numbers the documents constituting the record, and promptly send a certified copy of that index and the reporter's transcript, if any, to the Clerk of this court. The Clerk of the Superior Court must retain all other parts of the record for the parties to use in preparing the filings on appeal, subject to call by this court. In cases where a party has been granted a waiver of fees, costs, or security, see Rule 24, the Clerk of the Superior Court must prepare and submit a copy of the record to the Clerk of this court.

(B) In appeals where reporter's transcript is filed after the transmittal of the certified index, the Clerk of the Superior Court must forward the transcript as a supplemental record on appeal promptly after the Director of the Court Reporting Division files it.

(c) Record for a Preliminary Motion in the Court of Appeals. If, before the record is forwarded, a party files in this court a motion for dismissal, summary reversal, summary affirmance, release pending appeal, stay or injunction pending appeal, additional security on a supersedeas bond, or for any other relief, the Clerk of the Superior Court, upon order of this court, must transmit a

preliminary record containing the notices of appeal, the order appealed from, and those parts of the record designated by any party.

Rule 12. Docketing the Appeal; Filing the Record; Sealing the Record.

(a) Docketing the Appeal. Upon receiving the copy of a notice of appeal from the Clerk of the Superior Court under Rule 3(d), the Clerk of this court must docket the appeal, identifying the appellant and adding the appellant's name if necessary.

(b) Filing the Record. Upon receiving the certified index and transcript, if any, as provided in Rule 11(b)(3)(A), the Clerk must immediately notify all parties that the record is complete.

(c) Sealing the Record. An appeal in which the record has been ordered sealed by this court or an appeal relating to (1) juvenile, (2) adoption, (3) parentage, or (4) neglect proceedings will be reflected on the public docket by the initials of the parties and the case number of the Superior Court. In these cases the Clerk must seal the records and all documents subsequently received from the Superior Court or counsel for the parties. In any other appeal noted from a case in which the record has been sealed by the Superior Court, the record alone will be filed under seal; any filings in this court in such appeals will be placed under seal only upon order of this court. The Clerk must not permit review or inspection of any sealed material by any person other than counsel of record for the parties except on order of this court.

Rule 13. Dismissal of Appeal.

(a) Involuntary Dismissal. The court, sua sponte or upon motion of the appellee, with or without notice, may dismiss an appeal for failure to comply with a rule of this court or where otherwise warranted.

(b) Voluntary Dismissal.

(1) In the Superior Court. Before an appeal has been docketed by the Clerk of this court, the Superior Court may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant's motion with notice to all parties. A copy of the stipulation, or motion and response, if any, must be served on the Clerk of this court.

(2) In the Court of Appeals. An appeal may be dismissed if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. An appeal may also be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court. In neither case, however, will a mandate or other process issue without an order of the court.

Rule 14. Appeal Conferences.

(a) Purpose of Conference. The court, sua sponte or upon motion of a party, may direct the attorneys to participate in one or more conferences to address any matter that may aid in resolving the appeal. This may include simplifying the issues, discussing the status of record preparation, possible consolidation of briefing in multi-party proceedings, and, in a non-criminal appeal, discussing settlement. A judge or other person will be designated by the court to preside over the conference.

(b) Attendance at Conference. Parties themselves are not required to attend an appeal conference except when a party is not represented by counsel, or when the conference officer has directed a party to attend. Before a conference called to discuss the possibility of settlement, the attorneys must consult with their clients and obtain as much authority as feasible to settle the case.

(c) Conference Order. As a result of the appeal conference, the court may enter an order controlling the course of the proceedings or implementing any settlement agreement. If the order fully disposes of the case, it will be entered by a single judge and the Clerk will issue a mandate to the Superior Court or agency directing it to enter an appropriate judgment or other order. The conference officer may also recommend to the court that a case be scheduled for expedited briefing or calendaring, as appropriate.

(d) Disqualification of Settlement Conference Judge. The conference officer, if a judge, will not participate in the disposition of the case.

(e) Confidentiality. Any statement, representation, or offer of settlement made in an appeal conference and not embodied in a conference order will be privileged and confidential.

TITLE III. REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES

Rule 15. Review of Agency Orders.

(a) Petition for Review; Joint Petition.

(1) Review of an agency order or decision is commenced by filing with the Clerk of this court a petition for review. If their interests make joinder practicable, two or more persons may join in a petition for review.

(2) Unless an applicable statute provides a different time frame, the petition for review must be filed within 30 days after notice is given, in conformance with the rules or regulations of the agency, of the order or decision sought to be reviewed. In the event the time prescribed by statute is less than 11 days, intermediate Saturdays, Sundays, and legal holidays, as defined in Rule 26 (a), are excluded in the computation unless the statute expressly provides otherwise. If the order or decision is made out of the presence of the parties and notice thereof is by mail, the petitioner will have 5 additional days from the date of mailing.

(3) Except in cases involving review of a decision of the Office of Administrative Hearings, which are governed by Rule 15(a)(4), the petition must:

(A) name each party seeking review either in the caption or the body of the petition — using such terms as "et al.," "petitioners," or "respondents" does not effectively name the parties;

(B) name the agency as a respondent; and

(C) specify the order or decision or part thereof to be reviewed.

(4) In cases involving review of a decision of the Office of Administrative Hearings, the petition must name each party seeking review, as required by Rule 15(a)(3)(A), and specify the order or decision or part thereof to be reviewed, as required by Rule 15(a)(3)(C). Only the parties before the Office of Administrative Hearings and any other party permitted to participate by this court shall be parties in this court. See D.C. Code § 2-1831.16(h). The petition may not name either the Office of Administrative Hearings or the Administrative Law Judge from the Office of Administrative Hearings as a respondent. See id.

(5) Except as provided in Rule 4(c), filing will not be deemed timely unless the petition is, in fact, received by the Clerk within the prescribed time.

(6) If the petitioner is a corporation or other entity, the petition must be signed by counsel. A petition not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party.

(7) If a timely petition for review is filed by a party, any other party to the proceeding before the agency may file a cross-petition for review within 14 days after the petition was filed, or within 30

days of the date of the challenged order or decision, whichever period expires later.

(8) Form 5 is a suggested form of a petition for review.

(b) Termination of the Time for Filing a Petition for Review. If a party timely files a petition for rehearing or reconsideration in accordance with the rules of the agency, the time to petition for review as fixed by section (a)(2) of this rule runs from the date when notice of the order denying the petition is given.

(c) Service of the Petition. The Clerk must serve a copy of the petition for review on each respondent agency and on the Office of the Attorney General for the District of Columbia or other counsel representing any agency respondent. At the time of filing, the petitioner must:

(1) serve, or have served, a copy on each party admitted to participate in the agency proceedings, except for any agency respondent; and

(2) file with the Clerk a list of those so served.

(d) Intervention. A party to the agency proceeding who wants to intervene in this court must, within 30 days from the date the petition is filed, serve upon all parties to the proceeding, and file with the Clerk, a notice of intention to intervene, in which case the party will be deemed an intervenor without the necessity of filing a motion. Any other person who wants to intervene must file a motion to intervene with the Clerk within 30 days of the date on which the petition for review is filed, unless the time is extended by order of the court for good cause. A copy of the motion must be served on all parties. The motion must contain a concise statement of the interest of the moving party and the grounds for intervention, and must state on which side the party seeks to intervene.

(e) Fees. When filing any separate or joint petition for review, the petitioner must pay the Clerk all required fees.

(f) To the extent applicable, Rule 25.1 (Emergency and Expedited Cases) governs review of certain agency orders or decisions.

Rule 16. Record on Review.

(a) Composition of the Record. The record on review consists of:

(1) the order involved;

(2) any findings or report on which it is based;

(3) all documents and exhibits as filed with the agency; and

(4) a certified copy of the transcript of any testimony before the agency, or, if no transcript is available, a certified narrative statement of relevant proceedings and evidence.

(b) Omissions From or Misstatements in the Record. The parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or the court may so direct. If necessary, the court may direct that a supplemental record be prepared and filed.

Rule 17. Filing of the Record.

(a) Agency to File; Time for Filing; Notice of Filing. A respondent agency must file the record within 60 days after being served with a petition for review. In cases involving the review of a decision of the Office of Administrative Hearings, the Office of Administrative Hearings must file the record within 60 days of the issuance of an order directing the filing of the record. The court may shorten or extend these deadlines for good cause. The Clerk must notify all parties and intervenors that the record has been filed.

(b) Filing – What Constitutes.

(1) The agency must file:

(A) a certified copy of the record on review or parts designated by the parties; or,

(B) if a partial record is filed, a certified list adequately describing all documents, transcripts, exhibits, and other material constituting the record on review.

(2) The parties may stipulate in writing that no record or certified list be filed. The date when the stipulation is filed with the Clerk is treated as the date when the record is filed.

(3) The agency must retain any portion of the record not filed with the Clerk. All parts of the record retained by the agency are a part of the record on review for all purposes and, if the court or a party so requests, must be sent to the court regardless of any prior stipulation.

Rule 18. Stay Pending Review.

(a) Motion for a Stay.

(1) Initial Motion Before the Agency. A petitioner must ordinarily move first before the agency for a stay pending review of its decision or order.

(2) Motion in the Court of Appeals. A motion for a stay may be made to this court.

(A) The motion must:

(i) show that moving first before the agency would be impracticable; or

(ii) state that the agency has denied a motion for stay and state any reasons given by the agency for its action.

(B) The motion must also include:

(i) the reasons for granting the relief requested and the facts relied on;

(ii) affidavits or other sworn statements supporting facts subject to dispute; and

(iii) relevant parts of the record, including a copy of the order or decision sought to be stayed.

(C) The moving party must give reasonable notice of the motion to all parties. Personal service on all parties is required if a ruling is requested before expiration of the time for a response, see Rule 27 (a)(4), or the moving party must demonstrate that personal service is not feasible.

(D) The motion will normally be considered by a division of the court. In an exceptional case where this procedure is impracticable because of time requirements, the motion may be submitted by the Clerk to a single judge of the court for consideration and interim ruling.

(b) Bond. The court may condition relief on the filing of a bond or other appropriate security.

Rule 19. Conditions Pending Review.

The court may take appropriate action to preserve the status or rights of parties pending decision on the petition, including the imposition of such conditions as it may, in its discretion, determine are necessary to prevent irreparable injury.

Rule 20. Applicability of Other Rules.

With the exception of Rules 3 through 12, all pertinent provisions of these rules apply to the review of agency orders and decisions.

TITLE IV. EXTRAORDINARY WRITS; CERTIFICATION OF QUESTIONS OF LAW

Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs.

(a) Mandamus or Prohibition to a Superior Court Judge or a District of Columbia Officer: Petition, Filing, Service and Docketing.

(1) A party petitioning for a writ of mandamus or prohibition directed to a Superior Court judge or a District of Columbia officer must file a petition with the Clerk of this court with proof of service on all parties to the proceeding in the Superior Court or before the affected agency. The party must also provide a copy to the judge or District of Columbia officer. The District of Columbia officer and all parties to the proceeding in the Superior Court other than the petitioner are respondents for all purposes.

(2)(A) The petition must be titled "In re [name of petitioner]."

(B) The petition must state:

(i) the relief sought;

(ii) the issues presented;

(iii) the facts necessary to understand the issue(s) presented by the petition; and

(iv) the reasons why the writ should issue.

(C) The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.

(3) Upon receiving the prescribed fee, the Clerk must docket the petition and submit it to the court.

(b) Denial; Order Directing Answer; Briefs; Precedence.

(1) The court may deny the petition without an answer. Otherwise, it must order the respondent(s) to answer within a fixed time.

(2) The Clerk must serve the order to answer on all respondents.

(3) Two or more respondents may answer jointly.

(4) The District of Columbia officer may inform the court and all parties in writing that he or she does not desire to appear in the proceeding, but the petition will not thereby be deemed admitted. This court may invite or order the Superior Court judge to address the petition or may invite an

amicus curiae to do so. The Superior Court judge may request permission to address the petition but may not do so unless invited or ordered to do so by this court.

(5) If briefing or oral argument is required, the Clerk must advise the parties of the dates by which briefs are to be filed, and of the date of oral argument.

(6) The proceeding must be given preference over ordinary civil cases.

(7) The Clerk must send a copy of the final disposition to the Superior Court judge or District of Columbia officer.

(c) Other Extraordinary Writs. An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the Clerk of this court with proof of service on the respondent. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in Rule 21(a) and (b).

(d) Form of Filings. All filings must conform to Rule 32. Except by the court's permission, a document must not exceed 30 pages.

Rule 22. Certification of Questions of Law.

(a) Counsel's Duties.

(1) Upon certification of a question of law to this court under D.C. Code § 11-723, counsel who is not a member of the Bar of this court must comply with the provisions of Rule 49(c)(7) within 20 days of the date of certification.

(2) Within 30 days of the date of the certification order, counsel must file statements (joint or separate) indicating whether the certification and accompanying documents are adequate to enable the court to decide the certified question. The court may direct the parties to supplement the certified record as necessary.

(b) General Provisions.

(1) The certified question will be deemed answered 21 days after the court's opinion is filed with the Clerk unless the time is shortened or extended by order.

(2) Unless otherwise ordered, the Clerk will send a certified copy of the opinion to the certifying court. The timely filing of a petition for rehearing or rehearing en banc will stay transmittal of the opinion unless otherwise ordered by the court.

Rule 23. Reserved.

TITLE V. PROCEEDINGS IN FORMA PAUPERIS

Rule 24. Waiver of Fees, Costs, or Security (In Forma Pauperis).

(a) In General. The standards governing eligibility for waiver are listed in D.C. Code § 15-712(a).

(b) Appeals from the Superior Court.

(1) Prior Approval. A party who was granted a waiver of court fees, costs, or security in the Superior Court, or who was determined by the Superior Court to be eligible for court-appointed counsel under D.C. Code § 11-2601 et seq. (criminal proceedings) or D.C. Code § 16-2304 (Family Court proceedings), may proceed on appeal without paying fees, costs, or security.

(2) Applications to be Filed in the Superior Court.

(A) Except as stated in Rule 24(b)(1), a party to a proceeding in the Superior Court who seeks to take an appeal without paying fees, costs, or security must file in the Superior Court within the time for filing an appeal:

(i) A notice of appeal containing the information prescribed in Form 1 or Form 2; and

(ii) An application to waive court fees, costs, or security pursuant to Superior Court Rule of Civil Procedure 54-II.

(B) If the Superior Court grants the waiver, the party may proceed on appeal without paying fees, costs, or security.

(C) If the Superior Court denies the waiver in whole or in part, the party may request a hearing under Superior Court Rule of Civil Procedure 54-II(j)(2). If, after the hearing, the Superior Court denies the waiver in whole or in part, the party may file in this court an application to proceed on appeal without paying fees, costs, or security. See Form 7. The application must include the signed declaration contained in Form 7 and:

(i) The notice of appeal and a copy of the application to waiver court fees, costs, or security filed in the Superior Court, and the order of the Superior Court stating the reasons for its denial or partial denial; and

(ii) A statement of the reasons the party believes the Superior Court's denial was in error and any additional evidence showing that the party is unable to proceed without substantial hardship to the party or to the party's dependent.

(3) Applications to be Filed in the Court of Appeals. If a party seeks to proceed on appeal without paying fees, costs, or security after having filed a notice of appeal and paid the required fees, the party must file with this court an application to waive court costs, fees, or security, see Form 7, and sign the declaration contained in Form 7.

(c) Petitions for Review of Agency Decisions. When review of an order or decision in a proceeding before an agency of the District of Columbia proceeds directly to this court, a party may file in this court, along with the petition for review, an application to waive court costs, fees, or security, see Form 7, and sign the declaration contained in Form 7. The waiver application and petition for review must be filed within the time permitted for seeking review of the agency order or decision to be reviewed.

(d) Petitions for Extraordinary Writs. A party who files a petition for an extraordinary writ and who seeks to proceed without paying fees, costs, or security must file, along with the petition, an application to waive court costs, fees, or security, see Form 7, and sign the declaration contained in Form 7.

(e) Timing for Deciding Waivers.

(1) Within 5 calendar days after receiving a completed waiver application, the court must decide whether to approve the application. The Clerk, if authorized, may grant waiver applications.

(2) If, within 5 calendar days after receiving a completed application, the court has not ruled on the waiver application, the application will be deemed approved.

(3) The deadlines in Rule 24(e)(1) and (2) do not apply where the court requires additional information under D.C. Code § 15-712(b)(1). See D.C. Code § 15-712(c)(1)(C).

(f) Denial of Waiver Application. If a waiver is denied by this court, the court shall state the reasons for the denial or partial denial in writing. A party who is denied a waiver in whole or in part may request a hearing on the matter in accordance with D.C. Code § 15-712(c)(3)(A). A hearing under this rule must be held no later than 14 days after the court receives the hearing request. If, after the hearing, the waiver is denied, the party must pay the required filing fee within the time specified in the final order of denial.

(g) Merits of Appeal or Petition. In considering a waiver application, the court must not consider the merits of the appeal or petition.

(h) Motion for Free Transcripts or Other Documents.

(1) Civil Cases. A party in a civil case who has been granted a waiver of court costs, fees, or security may file a motion in the Superior Court requesting that free transcripts or other documents be prepared and explaining the basis for the motion. See D.C. Code § 15-712(h); Rule 10(b)(5)(A), (C); Super. Ct. Civ. R. 54-II(k). The Superior Court must grant the motion unless the request is frivolous. D.C. Code § 15-712(h). In making this determination, the Superior Court must resolve doubt about the frivolousness of the request in favor of the applicant. The Superior Court may order that only those portions of the transcripts or other documents necessary to resolution of the appeal or petition be provided.

(2) Criminal Cases. In all cases in which the appellant has been permitted to proceed in the Superior Court under the Criminal Justice Act, D.C. Code § 11-2601 et seq., the notice of appeal

will be considered by the Superior Court as encompassing an order for the preparation of the reporter's transcript at the expense of the government. See Rule 10(b)(5)(B) (outlining applicable procedures). In any other criminal case, a defendant who has been granted a waiver of court costs, fees, or security may file a motion in the Superior Court requesting that free transcripts or other documents be prepared. Such a motion will be considered by the Superior Court as encompassing an order for the preparation of the reporter's transcript at the expense of the government and will be addressed under the procedures established in Rule 10(b)(5)(B).

(i) Confidentiality

(1) The court must keep confidential an application and any financial information submitted by the applicant pursuant to this rule or Superior Court Rule of Civil Procedure 54-II, except to the court, the litigant, persons authorized by the litigant, or by court order. The application must not be served on the other party.

(2) Motion for Access.

(A) Any person seeking access to an application or any financial information provided to the court by an applicant may file a motion, with notice given to the litigant who filed the application, supported by a declaration showing good cause for why the confidential information should be released to the movant.

(B) Any person who is granted access to the application or any financial information under this rule shall not reveal any information contained in the application, or any financial information, except as otherwise authorized by law or court order.

(3) The court's decision on an application for a waiver shall not be confidential.

(j) Special Rules Governing Appeals Proceeding Without Payment of Fees, Costs, or Security. For rules specially governing appeals appeals proceeding without payment of fees, costs, or security, see Rules 10(b)(5), 11(b)(3), and 30(f).

TITLE VI. GENERAL PROVISIONS

Rule 25. Filing and Service.

(a) Filing.

(1) Filing with the Clerk. A document required or permitted to be filed in this court must be filed with the Clerk.

(2) Electronic Filing and Signing. The following rules apply to electronic filing in this court.

(A) In General. Except as otherwise provided by court rule or order, all documents filed in this court must be filed electronically under procedures established by the court.

(B) Registration Requirement. All attorneys making an appearance in a case in this court must register for the court's efiling system under procedures established by the court.

(C) Self-represented Parties Who are Not Attorneys are Not Required to File Electronically. A party who is representing himself or herself in a case, who is not an attorney, and who has not otherwise registered for the court's efiling system, is not required to file documents electronically in that case. Such a party may choose to register for the court's efiling system. A party who has registered for the court's efiling system must file documents electronically. A party who is an attorney, even if proceeding pro se, must register for the court's efiling system and file documents electronically.

(D) Materials as to Which Electronic Filing Is Not Reasonably Feasible. Exhibits, attachments, or appendix materials that are of a size, shape, or format that does not reasonably permit electronic filing, or that are illegible when put into an electronic format, may be filed in paper or other appropriate form.

(E) Format. Documents filed electronically must be in a format approved by the court. Approved formats include PDF, RTF, TIFF, DOC, and DOCX. The court discourages (but does not prohibit) the submission of electronic files created by the scanning of paper documents. For reasons of image quality, the court prefers electronic files originating from word-processing software.

(F) Signatures. The person under whose name and password a document is electronically filed must sign the document. A document may be signed either typographically, in the format "s/attorney's name," or by means of a scanned handwritten signature. All other necessary signatures must be provided either in one of the preceding formats or through a representation by the filer that other signatories have authorized the filer to sign on their behalf.

(G) When Filed. An electronically filed document that was timely submitted and is accepted for filing will be deemed to have been filed at the time the document was submitted to the efiling system. Unless the court has set a different time for filing, a filed document that is submitted before midnight Eastern Time will be deemed timely filed on the date of filing. A document that

is filed on a day when the court is closed will be deemed to have been filed on the next day on which the court is open.

(H) Consent to Electronic Service and Notice. Registration for the court's efiling system constitutes consent to electronic service and notice of case-related documents and orders. For all parties who have consented to electronic service and notice, the corresponding electronic notice generated by the court's efiling system constitutes personal service of a filed document or notice of a ruling. For any party who has not consented to electronic service, or for documents that are not filed electronically, service or notice must be effected in accordance with Rules 25, 31, and 36.

(I) Exemption by Court. Upon showing of good cause, the court may exempt a party from otherwise applicable efiling requirements.

(J) Technical Errors. A party whose document is not filed as a result of technical error may seek appropriate relief from the court. If the efiling system is unavailable for a substantial period on a given day so as to prevent filing on that day, any document filed the next available day will be deemed to have been filed on the day that the efiling system became unavailable.

(K) Proper Use of Efiling System. The court's efiling system may be used only for case-related purposes. All users of the court's efiling system must comply with the procedures established by the court in this rule and in the terms and conditions for use of the efiling system.

(L) Ex Parte, Sealed, Expedited, and Emergency Filings. Any document being filed ex parte or under seal shall be so designated. An expedited or emergency filing must be so designated, both when submitting the document to the efiling system and on the first page of the document.

(3) Nonelectronic Filing.

(A) In General. For a document not filed electronically, filing may be accomplished by mail addressed to the Clerk, but filing is not timely unless the Clerk receives the document within the time fixed for filing.

(B) Inmate Filing. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25(a)(2)(B). A document filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(i) it is accompanied by: a declaration in compliance with 28 U.S.C. § 1746–or a notarized statement–setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the document was so deposited and that postage was prepaid; or

(ii) the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25(a)(2)(A)(ii).

(b) Service of all Documents Required. Unless a rule requires service by the Clerk, a party must, at or before the time of filing a document, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

(c) Manner of Service.

(1) Electronic. Electronic service of a document may be made by sending it to a registered user through the court's electronic filing system or sending it by other electronic means, such as email, that the person to be served consented to in writing.

(2) Nonelectronic. Parties who are not required to file electronically may serve filings by any of the following means:

(A) personal service, including delivery to a responsible person at the office of counsel;

(B) mail; or

(C) third-party commercial carrier for delivery within 3 calendar days.

(3) Request for Expedited or Emergency Consideration. A request for expedited or emergency consideration by this court must be electronically served or, for those not required or able to serve electronically, personally served on all counsel and any party not represented by counsel.

(4) Expeditious Manner. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the document with the court.

(5) By Mail or Commercial Carrier. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the document was not received by the party served.

(d) Proof of Service.

(1) In General. A document presented for filing must contain either of the following:

(A) an acknowledgment of service by the person served; or

(B) proof of service consisting of a statement by the person who made service certifying:

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic addresses, facsimile numbers, or addresses of the places of delivery, as appropriate for the manner of service.

(2) On or Accompanying the Document Filed. Proof of service may appear on or accompany the document filed.

(e) Non-acceptance of Documents by Clerk. If any document is not accepted by the Clerk for filing, the Clerk must promptly notify the persons named in the certificate of service.

Rule 25.1 Emergency and Expedited Cases.

(a) In general. By statute, by rule, or as a matter of court policy, some cases are automatically granted emergency or expedited consideration. The specific procedures in such cases may depend on applicable requirements and may be further established by court order in a particular case. A party may also file a motion requesting such consideration. In addition, the court may provide for such consideration by order. Emergency or expedited consideration may be warranted, for example, based on the immediacy of the relief needed or if a particularly important interest is at stake and expedited or emergency treatment is necessary for the matter to be resolved before that interest becomes moot.

(b) Emergency Cases. Emergency cases will be given immediate attention and priority in decision making.

(1) Procedure.

(A) The appellant/petitioner or counsel for appellant/petitioner must:

(i) Review the applicable statute or rule to assure compliance with the controlling time requirements.

(ii) Timely file a notice of appeal in the Superior Court or petition for review in this court, and notify the Clerk of this court in person or by telephone of: the filing of the notice of appeal or petition for review; the nature of the emergency case; the names, email addresses, and telephone numbers of all parties or their attorneys; and any transcript or other record materials needed to decide the case.

(iii) In an emergency appeal, immediately order any necessary transcript or have necessary vouchers prepared and submitted to the trial judge. Any order or voucher for transcript must request overnight preparation. If transcript is ordered, the appellant must pay for it promptly upon completion.

(iv) Submit a motion setting forth the relief sought and the grounds therefor, and personally or electronically serve a copy on the other parties. The motion must be accompanied by a copy of the order under review and any other documents filed in the Superior Court or before the agency which counsel believes essential for the court's consideration.

(B) Opposing counsel must submit and personally or electronically serve a written response or cross-motion in compliance with Rule 25.1(b)(1)(A)(iv). If necessary, the court may abbreviate the time within which a response or cross-motion must be filed.

(C) In the case of a juvenile interlocutory appeal, government appeal from an intra-trial order, or extradition appeal, the motion must be filed no later than 4:00 pm on the next calendar day after the filing of the notice of appeal. Any opposition must be filed with the Clerk by noon on the following calendar day after the filing of the motion, unless these times are shortened by court order.

(D) The Clerk will advise the assigned division of this court of the pendency of the emergency cases so that the case may be promptly decided or scheduled for argument where appropriate.

(E) In appropriate cases, the court may order oral argument on an emergency basis.

(2) Examples. Emergency cases include, but are not limited to: pre-trial bail or detention appeals, D.C. Code § 23-1324, juvenile interlocutory appeals, D.C. Code § 16-2328, government appeals from intra-trial orders, D.C. Code § 23-104(b) & (d), and extradition appeals, D.C. Code § 23-704.

(c) Expedited Cases. Expedited cases will be given priority over other cases.

(1) Procedure.

(A) The appellant/petitioner or counsel for appellant/petitioner must:

(i) Timely file a notice of appeal in the Superior Court and file a stamped copy of the notice with the Clerk of this court, or timely file a petition for review in this court.

(ii) In case of an expedited appeal, within 10 days of filing the notice of appeal, order or file an appropriate motion for preparation of the necessary transcript on an expedited basis, and make arrangements for payment as required by Rule 10(b)(4). In case of an expedited petition for review, the court will notify the agency that the record must be filed within thirty days from the date the petition for review is served or within such other time as is set by the court.

(B) Upon completion of the record, the Clerk will issue a briefing order. Parties also may file motions for summary disposition under Rule 27(c). Cases that are not decided by motion will be placed on the next available calendar after the case is ready to be submitted and will be given priority in the decision of cases.

(C) In appropriate cases, the court may order oral argument on an expedited basis.

(2) Examples. Expedited cases include, but are not limited to:

(A) government appeals from pre-trial orders, D.C. Code § 23-104(a)(1);

(B) appeals from orders of the Family Court either terminating parental rights or granting or denying petitions for adoption, D.C. Code § 11-721(g);

(C) petitions for review of certain determinations by the Board of Elections, D.C. Code § 1-309.06(f)(3)(C), § 1-1001.08(o)(2), and § 1-1001.17(k)(2);

(D) appeals from decisions under enforcement provisions of the Uniform Child-Custody Jurisdiction and Enforcement Act, D.C. Code § 16-4603.14;

(E) appeals from certain orders or decisions of the Public Service Commission, D.C. Code

§ 34-605(a) and § 34-1313.18;

(F) requests for review of an order regarding release or detention after a judgment of conviction, Rule 9(b);

(G) mandamus petitions, Rule 21(b)(6); and

(H) appeals from judgments of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia, D.C. Code § 17-301(b).

Rule 26. Computing and Extending Time.

(a) Computing Time. The following rules apply in computing any period of time specified in these rules or in any order of this court or applicable statute:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless an applicable statute or order of this court expressly provides otherwise, or unless the period is stated in calendar days.

(3) Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or — if the act to be done is the filing of a document in court — a day on which the weather or other conditions cause the Clerk's office to be closed.

(4) As used in this rule, "legal holiday" includes New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, District of Columbia Emancipation Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or by the District of Columbia.

(b) Extending Time. For good cause, the court may extend the time prescribed by these rules to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time:

(1) to file a notice of appeal (except as authorized in Rule 4) or an application for allowance of appeal; or

(2) to file a petition for review; or

(3) for doing any act when the time for doing the act has been prescribed by statute.

(c) Additional Time After Certain Kinds of Service. When a party is required or permitted to act within a prescribed period after a document is served on that party, 5 calendar days are added to the prescribed period unless the document is delivered on the date of service stated in the proof of service. For purposes of this Rule 26(c), a document that is served electronically is treated as delivered on the date of service stated in the proof of service. Rule 26(c) does not apply when an order of this court prescribes the time in which a party is required or permitted to act. Rule 26(c) also does not apply in determining the timeliness of notices of appeal filed under Rules 4, 5, or 6.

Rule 26.1. Corporate Disclosure Statement.

(a) Nongovernmental Corporation or Partnership. Any nongovernmental corporate party to a proceeding in this court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. If a party is a partnership, the party must file a statement listing all partners, including silent partners. The same requirement applies to a partnership or nongovernmental corporation that seeks to intervene.

(b) Organizational Victims in Criminal Cases. In a criminal case, unless the government shows good cause, it must file a statement that identifies any organizational victim of the alleged criminal activity. If the organizational victim is a corporation or partnership, the statement must also disclose the information required by Rule 26.1(a) to the extent that it can be obtained through due diligence.

(c) Time for Filing; Supplemental Filing. A party must file the Rule 26.1(a) statement with the principal brief or upon filing a motion, response, petition, or answer in this court, whichever occurs first. Even if the statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1(a) changes.

Rule 27. Motions.

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these rules prescribe another form. A motion must be in writing unless the court permits otherwise.

(2) Who May File. Any party may file a motion, but when represented by counsel, an individual party may not file a motion or pleading except for a motion to discharge or vacate the appointment of counsel. The Clerk will transmit that motion to counsel of record for that party.

(3) Contents of a Motion.

(A) Grounds and relief sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. A separate brief supporting the motion may not be filed.

(B) Accompanying documents.

(i) A motion may be supported by an affidavit or other document but any affidavit must contain only factual information, not legal arguments.

(ii) A motion seeking substantive relief must include a copy of the trial court's ruling or agency's decision.

(iii) All accompanying documents must be filed separately from the motion.

(C) Documents barred or not required.

(i) A separate brief supporting a motion must not be filed.

(ii) A notice of motion is not required.

(iii) A proposed order is not required.

(4) Response.

(A) Time to file. Any party may file a response to a motion; Rule 27(a)(3) governs its contents. A separate brief responding to the motion must not be filed. The response must be filed within 7 calendar days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 7-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

(B) Request for affirmative relief. A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, is governed by Rule 27(a)(4)(A) and (a)(5). The title of the response must alert the court to the request for relief.

(5) Reply to Response. Any reply to a response must be filed within 3 days after service of the response. A reply must not present matters that do not relate to the response.

(6) Other Pleadings. No further pleadings may be filed except with the court's permission and for extraordinary cause.

(b) Motion for a Procedural Order.

(1) Defined. A motion for a procedural order is one that does not substantially affect the rights of the parties or the ultimate disposition of the appeal. Such motions include, but are not limited to:

(A) motions for extensions of time;

(B) motions to exceed the page limits of briefs or motions;

(C) motions to supplement the record;

(D) motions to consolidate;

(E) motions for oral argument or to submit without oral argument;

(F) motions for remand of the record; and,

(G) motions to substitute parties.

(2) Time for Filing.

(A) A motion to consolidate must be filed promptly after the moving party becomes aware of grounds for consolidation.

(B) Motions for oral arguments must be filed in accordance with Rule 33(b).

(C) All other procedural motions may be filed at any time.

(3) Disposition Before Response Time. The court may act upon, or the Clerk if authorized may grant, motions for procedural orders at any time without awaiting a response. A party adversely affected by an order of the Clerk so entered may file a motion to reconsider, vacate, or modify that action. The Clerk will submit any such motion to the Chief Judge. A timely opposition filed after a motion is granted in whole or in part does not constitute a request to reconsider, vacate or modify the disposition; a motion requesting that relief must be filed within 10 calendar days after the order is entered on the docket.

(4) Statement of Consent or Opposition; Service. A party filing a motion for a procedural order must, before filing the motion, attempt to secure the consent of each party and attempt to determine

if an opposition or response will be filed. The movant must state at the beginning of the motion whether the motion is unopposed, whether an opposition will be filed, or whether it was impossible to contact one or more of the parties. In calendared, emergency, and expedited cases, if the movant states that an opposition will be filed or if the movant is unable to contact any other party, the movant must electronically serve, or for those not required to serve electronically, personally serve the motion on the other parties.

(c) Motions for Summary Affirmance or Reversal. The filing of a motion for summary affirmance or reversal will stay the briefing schedule unless otherwise ordered by the court. If a memorandum of law was previously filed in the Superior Court, it may be attached as an appendix to the motion. Responsive pleadings may be filed pursuant to the provisions of section (a) of this rule. A cross-motion for summary disposition may be filed in lieu of a response to a motion for summary disposition. If counsel deems it appropriate, a statement may be included in the motion or responsive pleading indicating that the motion or responsive pleading may be treated as the brief of the party if the court denies the motion or defers consideration on the merits.

(d) Form of Motions; Page Limits; Citations; Disclosure Statement and Calendared Cases.

(1) Format.

(A) Legibility. The text of a motion, response, or reply must be clearly set forth in black on a white background.

(B) Caption. There must be a caption that includes the case number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed.

(C) Page size, line spacing, margins, and font size. The document must be in an 8-1/2 by 11 inch format. The text must be double spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font size, including footnotes, must be 12-point or larger, preferably in Times New Roman or Courier New typeface. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(2) Page Limits. A motion or a response to a motion must not exceed 20 pages, exclusive of accompanying documents authorized by Rule 27(a)(3)(B), unless the court permits or directs otherwise. A reply to a response must not exceed 10 pages.

(3) Citations in Motions. The provisions of Rule 28(g), governing citations in briefs, apply to citations in motions and all other documents filed with the court.

(4) Disclosure Statement. A motion must include a disclosure statement if one is required by Rule 26.1.

(5) Calendared Cases. Once a case has been placed on the calendar for disposition by a merits division, any motion, response, or reply must note on the front page, directly under the appeal

number and in bold print, that the matter has been calendared, argued, or submitted and the date of the argument or submission.

(e) Oral Argument. A motion will be decided without oral argument unless the court orders otherwise.

(f) Clerk May Refuse to File. If a motion does not conform to the rules or is not legible, the Clerk may refuse to file it.

Rule 28. Briefs.

(a) Brief of the Appellant (or Petitioner). The brief must contain, under appropriate headings and in the order indicated:

(1) A title page containing:

(A) the number of the case centered at the top;

(B) the name of the court;

(C) the title of the case as it appears on the appellate docket (see Rule 12(a));

(D) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below;

(E) the title of the brief, identifying the party or parties for whom the brief is filed; and

(F) the name, office address, email address, and telephone number of counsel filing the brief. (If more than one name is listed, counsel who will argue the matter must be denoted with an asterisk.);

(2) in the case of a non-governmental party, and to enable the judges of this court to consider possible recusal:

(A) a list of all parties, intervenors, amici curiae, and their counsel in the trial court or agency proceeding and in the appellate proceeding; and

(B) a disclosure statement if one is required by Rule 26.1;

(3) a table of contents, with page references;

(4) a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited, and with an asterisk designating those cases chiefly relied upon;

(5) an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing this court's jurisdiction on some other basis;

(6) a statement of the issues presented for review;

(7) a statement of the case briefly indicating the nature of the case, the course of the proceedings, and the disposition below;

(8) a statement of facts relevant to the issues submitted for review with appropriate references to the record (see Rule 28(e));

(9) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

(10) an argument containing:

(A) the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and,

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issues or under a separate heading placed before the discussion of the issues); and

(11) a short conclusion stating the precise relief sought.

(b) Brief of the Appellee (or Respondent). The brief must conform to the requirements of Rule 28(a), except that none of the following need appear unless the appellee is dissatisfied with the statement of the appellant:

(1) the statement of the issues;

(2) the statement of the case;

(3) the statement of the facts; and

(4) the statement of the standard of review.

(c) Reply Brief. The appellant may file a brief in reply to the appellee's brief. An appellee who has cross-appealed may file a brief in reply to the appellant's response to the issues presented by the cross-appeal. Unless the court permits, no further briefs may be filed. A reply brief must contain a table of contents, with page references, and a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the reply brief where they are cited.

(d) References to Parties. In briefs and at oral argument, counsel should minimize the use of the terms "appellant," "petitioner," "respondent," and "appellee." To make the briefs clear, counsel should use the parties' actual names or the designation used in the Superior Court or agency proceeding, or such descriptive terms as "the employee," "the injured person," "the landlord," or "the tenant."

(e) References to the Record. References to the parts of the record contained in the appendix filed with the appellant's brief must be to the pages of the appendix. If reference is made to an part of the record not included in the appendix, any reference must be to the PDF pagination of the record supplied by the Superior Court or agency and the page of the original document (for example: R. 153 (PDF) (Order p. 5)). A party referring to evidence whose admissibility is in controversy must

cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected (for example, R. 154 (PDF) (Tr. p. 5)).

(f) Reproduction of Statutes, Rules, Regulations, etc. If the court's determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts must be set out in the brief or in an addendum at the end.

(g) Citations. A published opinion or order of this court may be cited in any brief. Unpublished orders or opinions of this court may not be cited in any brief, except when relevant (1) under the doctrines of law of the case, res judicata, or collateral estoppel; (2) in a criminal case or proceeding involving the same defendant; or (3) in a disciplinary case involving the same respondent.

(h) Citation to Administrative Agency Orders, Decisions and Opinions. On review of orders and decisions of administrative agencies, an internal order, decisions or opinion of the agency in another case may be cited to the court if (1) it is available in a publicly accessible electronic database (the web address to which is provided), or (2) a copy of it is furnished to the court in an addendum at the end of the brief or in the appendix.

(i) Briefs in a Case Involving a Cross-Appeal. If a cross-appeal is filed, the party who files a notice of appeal first is the appellant for purposes of this rule and Rules 30, 31, and 34. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by agreement of the parties or by court order. With respect to appellee's cross-appeal and response to appellant's brief, appellee's brief must conform to the requirements of Rule 28(a). But an appellee who is satisfied with appellant's statement need not include a statement of the case or the facts.

(j) Briefs in a Case Involving Multiple Appellants or Appellees. In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a single brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

(k) Citation of Supplemental Authority. If pertinent and significant authorities come to a party's attention after the party's brief has been filed, or after oral argument but before decision, a party may promptly file a letter with the Clerk served on the other parties, setting forth the citations. The letter must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. Any response must be made promptly and must be similarly limited. If the supplemental authorities are not readily available in published form, the party submitting the letter must also attach a copy of the authority to the letter to the Clerk.

Rule 29. Brief of an Amicus Curiae

(a) During Initial Consideration of a Case on the Merits.

(1) Applicability. Rule 29(a) governs amicus filings during the court's initial consideration of a case on the merits.

(2) When Permitted. The United States or the District of Columbia, or an officer or agency of either, or a state, territory, commonwealth, or political subdivision thereof, may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing, but the court may prohibit the filing of or may strike an amicus brief that would result in a judge's disqualification.

(3) Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(4) Contents and Form. An amicus brief must comply with Rule 32. Additionally, the title page must contain the information required by Rule 28(a)(1), identify the party or parties supported, and indicate whether the brief supports affirmance or reversal. An amicus brief need not otherwise comply with Rule 28, but must include the following:

(A) if the amicus curiae is a corporation, a disclosure statement like that required of parties by Rule 26.1;

(B) a table of contents, with page references;

(C) a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited, and with an asterisk designating the cases chiefly relied upon;

(D) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file; and

(E) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review.

(5) *Length*. Except by the court's permission, an amicus brief may not exceed 25 pages.

(6) *Time for Filing*. An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed.

An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) Reply. Except by the court's permission, an amicus curiae may not file a reply brief.

(8) Oral Argument. An amicus curiae may participate in oral argument only with the court's permission.

(b) During Consideration of Whether to Grant Rehearing.

(1) Applicability. Rule 29(b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc.

(2) When Permitted. The United States or the District of Columbia, or an officer or agency of either, or a state, territory, commonwealth, or political subdivision thereof, may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court.

(3) Motion for Leave to File. Rule 29(a)(3) applies to a motion for leave.

(4) Contents, Form, and Length. Rule 29(a)(4) applies to the amicus brief. The brief must not exceed 10 pages.

(5) Time for Filing. An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the petition is filed. An amicus curiae opposing the petition must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.

Rule 30. Appendix to the Briefs.

(a) Appellant's Responsibility.

(1) Contents of the Appendix. The appellant must prepare an appendix to the briefs containing:

(A) the relevant docket entries in the proceeding below;

(B) the relevant pleadings, charge, findings, or opinion;

(C) the judgment, order, or decision in question; and

(D) other parts of the record to which the parties wish to direct the court's attention.

(2) Excluded Material. Memoranda of law filed in the Superior Court should not be included in the appendix unless they have independent relevance. Parts of the record may be relied on by the court or the parties even though not included in the appendix.

(3) Obligation and Time to File. The appellant must file the appendix with the brief and must serve it on counsel for each party separately represented.

(b) All Parties' Responsibilities.

(1) Determining the Contents of the Appendix. The parties are encouraged to agree on the contents of the appendix. In the absence of an agreement, the appellant must, within 20 days after the Clerk has notified the parties that the record is filed, serve on all other parties a designation of the parts of the record the appellant intends to include in the appendix and a statement of the issues the appellant intends to present for review. Any other party may, within 10 days after receiving the designation, serve on the appellant a designation of additional parts to which it wishes to direct the court's attention. The appellant must include the designated parts in the appendix. In designating the contents of the record, the parties should focus on the record documents central to the case, because the entire record is available to the court. This paragraph applies also to a cross-appellant and a cross-appellee.

(2) Costs of the Appendix. Unless the parties agree otherwise, the appellant must pay the cost of any nonelectronic appendix permissibly filed under Rule 25. If the appellant considers parts of the record designated by another party to be unnecessary, the appellant may advise that party, who must then advance the cost of including those parts. The cost of the appendix is a taxable cost. If any party causes unnecessary parts of the record to be included in the appendix, the court may impose the costs of those parts on that party. Appropriate sanctions may also be imposed, after notice and opportunity to respond, against a party or counsel who unreasonably increases litigation costs by including such material in the appendix.

(c) Format of the Appendix. The appendix must begin with a table of contents identifying the page at which each part begins. The pages of the appendix must be numbered consecutively. The relevant docket entries must follow the table of contents, and other parts of the record must follow

chronologically. When pages from the transcript of proceedings are placed in the appendix, the date of each transcript and the page numbers must be listed on a separate page of the appendix immediately before the included pages. Omissions in the text of documents or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) should be omitted.

(d) Appendix in Appeals Proceeding with Waiver of Fees, Costs, or Security, Under the Criminal Justice Act, or Under the Prevention of Child Abuse and Neglect Act. No appendix is required in cases in which a party has been granted a waiver of fees, costs, or security, or counsel has been appointed to represent the party. In such cases, however, the party must still comply with the record reference requirement of Rule 28(e).

Rule 31. Serving and Filing Briefs.

(a) Time to Serve and File a Brief.

(1) The appellant must serve and file a brief within 40 days after the Clerk has notified the parties that the record is filed or, following such notice, after the court has denied a motion for summary affirmance. The appellee must serve and file a brief within 30 days after the appellant's brief is served. The appellant may serve and file a reply brief within 21 days after service of the appellee's brief, but a reply brief must be filed at least 7 days before oral argument.

(2) In consolidated appeals, individual appellants or appellees may join to file a single brief. If separate briefs are filed by individual appellants or appellees, the responsive brief or briefs must be filed in the time provided in paragraph (1) of this rule, with the time beginning to run after service of the latest brief to which a response is made.

(b) Consequence of Failure to File. If an appellant fails to file a brief within the time provided by this rule, or within the time as extended, an appellee may move to dismiss the appeal. A party who fails to file a brief will not be heard at oral argument unless the court grants permission.

Rule 32. Form of Briefs, Appendices, and Other Filings.

(a) Form of a Brief.

(1) Legibility. The text of a brief must be clearly set forth in back on a white background, and any photographs, illustrations, and tables must be legible.

(2) Title Page. The title page must conform to Rule 28(a)(1).

(3) Page Size, Line Spacing, and Margins. The brief must be in an 8½ by 11 inch page format. The text must be double spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(4) Typeface and Type Style. The font size, including footnotes, must be 14-point or larger, in Times New Roman, Arial, or similarly readable typeface. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(5) Length. A principal brief may not exceed 50 pages. A reply brief may not exceed 20 pages. Headings, footnotes, and quotations count toward these page limits, but those statements, tables, and addenda required by Rule 28(a)(1)-(4) and Rule 28(f) do not count toward the limitation.

(b) Form of an Appendix. An appendix must comply with Rule 32(a)(1)-(4)and may include a legible copy of any document found in the record or of a judicial or agency decision.

(c) Form of Other Filings.

(1) Motion. The form of a motion is governed by Rule 27(d).

(2) Other Filings. Any other filing, including a petition for rehearing or rehearing en banc, and any response to such a petition, must comply with Rule 32(a).

(d) Signature. Every brief, motion, or other document filed with the court must be signed by the party filing the document or, if the party is represented, by one of the party's attorneys.

(e) Clerk May Refuse to File. If a brief or other document does not conform to the rules of this court or is not legible, the Clerk may refuse to file it.

Rule 33. Calendaring of Cases.

(a) Calendar. Each month the Chief Judge, with the assistance of the Clerk, will prepare and post a calendar of cases to be argued in the second month after the posting. The Clerk will place expedited cases on the next available calendar after the case is ready to be submitted. The calendar will indicate the docket number, the short title of the case, the names of counsel, if any, for each party, and whether the case has been placed on the regular or the summary calendar. The Clerk will notify the parties that the case has been calendared. Because the calendar will be posted in the public office of the Clerk as well as on the court's website, and because it will be published in the Daily Washington Law Reporter, the failure of counsel or a party to receive another notice will not excuse a failure to appear when the case is called for argument.

(b) Regular Calendar. Cases on the regular calendar will be scheduled for argument. The Clerk will notify counsel and each unrepresented party of the specific date and time for oral argument approximately 30 days in advance.

(c) Summary Calendar. Cases on the summary calendar will not be argued unless a request for argument is approved by the court or argument is ordered sua sponte. Motions for oral argument must demonstrate good cause and be served on all parties and filed with the Clerk within 10 days after notice of calendaring has been transmitted by the Clerk.

Rule 34. Oral Argument.

(a) In General. Argument will be scheduled as provided in Rule 33.

(b) Postponement. If counsel or an unrepresented party cannot, for good cause, appear on the scheduled argument date, a motion for postponement must be promptly filed. Proceedings in any trial court, whether federal, state, or local, will not ordinarily be deemed good cause for postponing argument; however, a case may be set first or last in order to accommodate a trial judge.

(c) Order and Contents of Argument. The appellant opens and concludes the argument. Counsel must not read at length from briefs, records, or authorities.

(d) Cross-Appeals, Consolidated Appeals, and Separate Appeals. If there is a cross-appeal, Rule 28(i) determines which party is the appellant and which is the appellee for purposes of oral argument. When cases have been consolidated, they are deemed one case for purposes of argument. Separate parties should avoid duplicative argument. Unless the court directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued.

(e) Nonappearance of a Party. If the appellee fails to appear for argument, the court ordinarily will hear the appellant's argument. If the appellant fails to appear for argument, the court may hear the appellee's argument. If neither party appears, the case will be decided on the briefs, unless the court orders otherwise. See also Rule 31(c).

(f) Submission on Briefs. The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.

(g) Time Allowed.

(1) Specific Allotments. Each side will be allowed time for argument in accordance with the court's Internal Operating Procedures.

(2) Apportionment. The time allowed may be apportioned between counsel on the same side at their discretion. If counsel on the same side, between whom time is to be apportioned, represent different interests, any agreed upon apportionment must be reported to the court at the opening of the argument; or, if an agreement has not been made, the apportionment will be made by the court.

(3) Intervenors. Counsel for an intervenor will be permitted to argue to the extent that counsel on whose side the intervenor has intervened is willing to share the allotted time.

(4) Motion for Additional Time. A motion for additional time for argument must be filed within 10 days after the appellee's brief has been filed.

Rule 35. (Transferred to Rule 40)

Rule 36. Entry of Judgment; Notice; Opinions.

(a) Entry. A judgment is entered when it is noted on the docket. The Clerk must prepare, sign, and enter the judgment after receiving the court's opinion or, if a judgment is rendered without an opinion, as the court instructs.

(b) Notice. On the date when judgment is entered, the Clerk must transmit to all counsel or unrepresented parties a copy of the opinion — or the judgment, if no opinion was written — and a notice of the date when the judgment was entered.

(c) Publication of Opinions. An opinion may be either published or unpublished. A party or other interested person may request that an unpublished opinion be published by filing a motion within 30 days after issuance of the opinion, stating why publication is merited. The court sua sponte may also publish any previously issued unpublished opinion.

Rule 37. Interest on Judgment.

(a) When the Court Affirms. Unless the law provides otherwise, if a money judgment in a civil case or agency proceeding is affirmed, whatever interest is allowed by law is payable from the date when the judgment of the Superior Court or the order of the agency was entered.

(b) When the Court Reverses. If the court modifies or reverses a judgment with a direction that a money judgment be entered in the Superior Court, interest will be calculated from the date on which the judgment was originally entered in the Superior Court, unless the mandate of this court provides otherwise.

Rule 38. Sanctions.

When a party to a proceeding before this court or an attorney practicing before the court takes an appeal or files a petition or motion that is frivolous or interposed for an improper purpose, such as to harass or to cause unnecessary delay, or fails to comply with an order of this court, the court may, on its own motion or on motion of a party, impose appropriate sanctions on the offending party, the attorney, or both. Before doing so on its own motion, the court will give the party notice and an opportunity to respond. Sanctions that may be imposed include dismissal of the appeal; imposition of single or double costs, expenses, and attorneys' fees; and disciplinary proceedings.

Rule 39. Costs.

(a) Against Whom Assessed. The following rules apply unless the law provides or the court orders otherwise:

(1) if an appeal is dismissed, costs are awarded against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are awarded against the appellant;

(3) if a judgment is reversed, costs are awarded against the appellee;

(4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are awarded only as the court orders.

(b) Costs For or Against the United States. Costs for or against the United States, its agency, or officer will be awarded under Rule 39(a) only if authorized by law.

(c) Costs of Copies. The costs of reproducing any nonelectronic briefs and appendices filed and served in conformity with the court's rules will be awarded at actual cost or at a rate periodically set by the Clerk.

(d) Bill of Costs or Fees.

(1) A party who wants the court to award costs or fees incurred in prosecuting the appeal must, within 14 days from the entry of judgment, file with the Clerk an itemized and verified bill of costs or fees, accompanied by proof of service. Costs or fees that may be requested include any filing fees; the cost of reporter's transcripts necessary to prosecute the appeal; copying costs listed in Rule 39(c); postage and other delivery costs, provided the most reasonable means of delivery was used; and the cost of any premiums paid for a bond or other security required to preserve rights pending appeal.

(2) Objections to a request for costs and fees must be filed within 10 days after service of the bill of costs and fees, unless the court extends the time.

(3) If a petition for rehearing or rehearing en banc is filed, the court will not act upon a bill of costs and fees until the petition has been resolved.

(4) Upon approval of a bill of costs and fees, an order will be entered stating the costs and fees awarded. The Clerk will transmit this order to the Clerk of the Superior Court, who must add the fees and costs to the judgment.

(e) Costs on Appeal in Agency Cases. Costs and fees incurred in appeals from agency proceedings will be determined and awarded by this court for the benefit of the party entitled to costs under this rule.

Rule 40. Division Rehearing; En Banc Determination.

(a) A Party's Options. A party may seek rehearing of a decision through a petition for division rehearing, a petition for rehearing en banc, or both. A party seeking both forms of rehearing must file the petitions as a single document. Division rehearing is the ordinary means of reconsidering a division decision; rehearing en banc is not favored. In cases consolidated on appeal, a petition filed by one party will not be deemed filed by any other party.

(b) Content of a Petition.

(1) Petition for Division Rehearing. A petition for division rehearing must:

(A) state with particularity each point of law or fact that the petitioner believes the court has overlooked or misapprehended; and

(B) argue in support of the petition.

(2) Petition for Rehearing En Banc. A petition for rehearing en banc must begin with a statement that:

(A) the division decision conflicts with a decision of the court to which the petition is addressed (with citation to the conflicting case or cases) and the full court's consideration is therefore necessary to secure or maintain uniformity of the court's decisions;

(B) the division decision conflicts with a decision of the United States Supreme Court (with citation to the conflicting case or cases); or

(C) the proceeding involves one or more questions of exceptional importance, each concisely stated.

(c) When Rehearing En Banc May Be Ordered. On their own or in response to a party's petition, a majority of the judges who are in regular active service and who are not disqualified may order that an appeal or other proceeding be reheard en banc. Unless a judge in active service or a retired judge who was a member of division that rendered the decision calls for a vote, a vote need not be taken to determine whether the case will be so reheard. Rehearing en banc is not favored and ordinarily will be allowed only if one of the criteria in Rule 40(b)(2)(A)-(C) is met.

(d) Time to File; Form; Length; Response; Oral Argument.

(1) Time. Any petition for division rehearing or rehearing en banc must be filed within 14 days after judgment is entered—or, if the division later amends its decision (on rehearing or otherwise), within 14 days after the amended decision is entered.

(2) Form of Petition. The petition must comply in form with Rule 32. Copies must be filed and served as Rule 31 prescribes.

(3) Length. The petition (or a single document containing a petition for division rehearing and a petition for rehearing en banc) must not exceed 15 pages.

(4) Response. Unless the court so requests, no response to the petition is permitted. Ordinarily, the petition will not be granted without such a request. If a response is requested, the requirements of Rule 40(d)(2)-(3) apply to the response.

(5) Oral Argument. Oral argument on whether to grant the petition is not permitted.

(e) If a Petition Is Granted. If a petition for division rehearing or rehearing en banc is granted, the court may:

(1) dispose of the case without further briefing or argument;

(2) order additional briefing or argument; or

(3) issue any other appropriate order.

(f) Division's Authority After a Petition for Rehearing En Banc. The filing of a petition for rehearing en banc does not limit the division's authority to take action described in Rule 40(e).

(g) Initial Hearing En Banc. On its own or in response to a party's petition, the court may hear an appeal or other proceeding initially en banc. A party's petition must be filed no later than the date when its principal brief is due. The provisions of Rule 40(b)(2), (c), and (d)(2)-(5) apply to an initial hearing en banc. But initial hearing en banc is not favored and ordinarily will not be ordered. Unless a judge in active service calls for a vote, a vote need not be taken to determine whether the case will be so heard.

(h) Reconsideration. A party may not file a motion to reconsider the denial of a petition for rehearing, initial hearing en banc, or rehearing en banc.

Rule 41. Mandate: Contents; Issuance and Effective Date; Stay; Remand; Recall; and Disciplinary Matters

(a) Contents. The mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs.

(b) When Issued. The court's mandate must issue 7 calendar days after the time to file a petition for rehearing expires, or 7 calendar days after entry of an order denying a timely petition for division rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. The court may shorten or extend the time by order.

(c) Effective Date. The mandate is effective when issued.

(d) Staying The Mandate.

(1) On Petition for Rehearing or Motion. The timely filing of a petition for division rehearing, petition for rehearing en banc, or motion for stay of mandate, stays the mandate until disposition of the petition or motion, unless the court orders otherwise.

(2) Pending Petition for Certiorari.

(A) Motion to Stay. A party may move to stay the mandate pending the filing of a petition for a writ of certiorari in the Supreme Court. The motion must be served on all parties and must show that the certiorari petition would present a substantial question and that there is good cause for a stay.

(B) Duration of Stay; Extensions. The stay must not exceed 90 days, unless the period is extended for good cause or the party who obtained a stay notifies the Clerk in writing within the period of the stay:

(i) that the time for filing a petition has been extended, in which case the stay continues for the extended period; or

(ii) that the petition has been filed, in which case the stay continues until the Supreme Court's final disposition.

(C) Security. The court may require a bond or other security as a condition to granting or continuing a stay of the mandate.

(D) Issuance of Mandate. The Clerk must issue the mandate immediately on receiving a copy of a Supreme Court order denying the petition, unless extraordinary circumstances exist.

(3) Consolidated Cases. In cases consolidated on appeal, a petition filed by one party does not operate to stay the mandate as to any other party.

(e) Remand. If the record in any case is remanded to the Superior Court or to an agency, this court

retains jurisdiction over the case. If the case is remanded, this court does not retain jurisdiction, and a new notice of appeal or petition for review will be necessary if a party seeks review of the proceedings conducted on remand.

(f) Recall of the Mandate. Any motion to recall the mandate must be filed within 180 days from issuance of the mandate.

(g) Disciplinary Cases. A mandate is not issued in a disciplinary case that is initiated in this court by a report and recommendation from the Board on Professional Responsibility. A disbarment or suspension from the practice of law is commenced as provided by the District of Columbia Bar Rules.

Rule 42. Appearance and Withdrawal of Attorneys; Self-representation.

(a) Entry of Appearance. Any filing by an attorney in this court will constitute the entry of an appearance by that attorney as counsel for the party on whose behalf the document is filed. An attorney may also enter an appearance on a form provided by the Clerk. By entering an appearance on behalf of a party, the attorney certifies that he or she is authorized to represent the party.

(b) Withdrawal of Appearance. No attorney may withdraw an appearance without leave of court.

(c) Self-Representation. These rules do not prevent a person who is without counsel from prosecuting or defending an appeal in which that person is a party. Any right to proceed pro se does not include the right to represent other parties to the same proceeding.

Rule 43. Substitution of Parties.

(a) Death of a Party.

(1) After Notice of Appeal is Filed. If a party dies after a notice of appeal has been filed or while a proceeding is pending in this court, the decedent's personal representative may be substituted as a party on motion filed with the Clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the court may then direct appropriate proceedings.

(2) Before Notice of Appeal is Filed – Potential Appellant. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative – or, if there is no personal representative, the decedent's attorney of record – may file a notice of appeal within the time prescribed by these rules. After the notice of appeal is filed, substitution must be in accordance with Rule 43(a)(1).

(3) Before Notice of Appeal is Filed – Potential Appellee. If a party against whom an appeal may be taken dies after entry of a judgment or order in the Superior Court, but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution must be in accordance with Rule 43(a)(1).

(b) Substitution for a Reason Other Than Death. If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43(a) applies.

(c) Public Officer; Identification; Substitution.

(1) Identification of Party. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the court may require the public officer's name to be added.

(2) Automatic Substitution of Officeholder. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution are to be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.

Rule 44. Challenges to Statutes of the United States or the District of Columbia.

(a) Constitutional Challenge to a Federal Statute. If, in a proceeding in this court in which the United States, or its agency, officer, or employee is not a party in an official capacity, a party questions the constitutionality of an Act of Congress, the questioning party must give written notice to the Clerk immediately upon the filing of the record or as soon as the question is raised in this court. The Clerk must then certify that fact to the Attorney General.

(b) Challenge to a District of Columbia Statute. If, in a proceeding in this court in which the District of Columbia or its agency, officer, or employee is not a party in an official capacity, a party questions the constitutionality of an act of the Council of the District of Columbia or the validity of such an act under the District of Columbia Self-Government and Reorganization Act, the questioning party must give written notice to the Clerk immediately upon the filing of the record or as soon as the question is raised in this court. The Clerk must then certify this fact to the Office of the Attorney General for the District of Columbia. For purposes of this rule, the District of Columbia or its agency, officer, or employee will not be considered a party to the proceedings unless represented by the Attorney General.

Rule 45. Clerk's Duties.

(a) When Court is Open. The Clerk's office will be open during business hours on all days except Saturdays, Sundays, and legal holidays, including New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, District of Columbia Emancipation Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or by the District of Columbia. The Court of Appeals is always open to accept the filing of any document related to an appeal and to consider and dispose of emergency matters.

(b) Records.

(1) The Docket. The Clerk must make entries in appropriate dockets and records of all documents filed with, and orders issued by, the court, and of all proceedings of the court. Cases must be assigned consecutive docket numbers.

(2) Receipt and Disbursement of Funds. The Clerk must receive and keep proper accounts of all monies deposited or paid into or out of the Clerk's office, and must make all reports concerning these accounts as may be required by law or directed by the court.

(c) Notice of an Order or Judgment. Upon entry of an order or judgment, the Clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket. Service on a party represented by counsel must be made on counsel.

(d) Custody of Records and Documents. The Clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the Clerk must not permit any original physical record or paper in the court's files to be taken from the Clerk's office by any person not an employee of the District of Columbia Courts. The Clerk must preserve a copy of any brief, appendix, or other paper that has been filed.

Rule 46. Admission to the Bar.

(a) *Committee on Admissions.*

(1) *In General*. There is a standing committee appointed by the court and known as the Committee on Admissions (Committee). The court will appoint at least 7 members of the Bar of this court, one of whom will serve as counsel to the Committee. The court will appoint members for terms of 3 years. In case of a vacancy arising before the end of a member's term, the court will appoint a successor to serve the unexpired term of the predecessor member. When a member holds over after the expiration of the term for which that member was appointed, the time served after the expiration of that term is part of a new term. No member may be appointed to serve longer than 2 consecutive regular 3-year terms, unless an exception is made by the court.

(2) *Power to Adopt Rules and Regulations*. Subject to the approval of the court, the Committee may adopt such rules and regulations as it deems necessary to implement the provisions of this rule.

(3) *Compensation and Expenses*. The court may approve compensation and necessary expenses for the Committee members.

(4) *Immunity*. Committee members and their lawfully appointed designees and staff are immune from civil suit for any conduct in the course of their official duties.

(b) *Admission to the Bar of This Jurisdiction.*

(1) *In General*. Admission may be based on:

(A) proof of good moral character and general fitness as it relates to the practice of law; and

(B) one of the following:

(i) examination in this jurisdiction;

(ii) transfer of a Uniform Bar Examination score attained in another jurisdiction;

(iii) for persons who apply for admission to this Bar by March 31, 2022, based on a score obtained in a bar examination administered by July 2021, the applicant's qualifying score on the Multistate Bar Examination administered in another jurisdiction and membership in the bar of such other jurisdiction; or

(iv) membership in good standing of a bar of a court of general jurisdiction in the United States for a period of at least 3 years immediately prior to the application for admission.

(2) *Review of Applications.* The Director of Admissions (Director) must review each application for admission to determine the applicant's eligibility and to verify that the application is complete. The burden is on the applicant to demonstrate eligibility and to provide complete information. If

eligibility is not demonstrated or the application is not complete, the Director may request additional or required information and may permit the applicant to provide the requested information within a reasonable time. If the applicant fails to provide the requested information, the Director may dismiss the application.

(3) *Confidentiality*. The contents of the application for admission are confidential, but the Committee may disclose the contents of the application or the applicant's failure to disclose required information that becomes known to the Committee:

(A) to the Office of Disciplinary Counsel for good cause;

(B) to the Committee on Unauthorized Practice of Law for good cause; or

(C) on order of the court.

(c) *Admission Based on Examination in This Jurisdiction.*

(1) *Place and Dates of Examination*. Examinations for admission to the Bar are held on successive days in February and July of each year in Washington, D.C., at a place designated by the Committee on dates designated by the National Conference of Bar Examiners (NCBE). The Committee may extend the days for examination for an applicant pursuant to a request for testing accommodations.

(2) *Application to Take the Bar Examination: Format, Time for Filing, and Fees.*

(A) *Format and Time for Filing*. An application to take the bar examination must be submitted in the format and by the date required by the Committee.

(B) *Fees*. The application must be accompanied by payment or proof of payment in accordance with instructions provided by the Director.

(3) *Proof of Legal Education in a Law School Approved by the American Bar Association.* An applicant who has graduated from or completed all requirements for graduation from a law school that at the time of degree conferral is approved by the American Bar Association (ABA) may take the bar examination if the degree conferral occurred before, or is expected within 3 months after, the first day of the bar examination. Before an applicant can be admitted to the Bar, the Director must receive a certification that the applicant has graduated from an ABA-approved law school with a J.D. or LL.B. degree.

(4) *Law Study in a Law School Not Approved by the ABA.* An applicant who graduated from a law school not approved by the ABA may take the bar examination only after successfully completing at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA. All such 26 credit hours must be earned in courses of study, each of which is substantially concentrated on a single subject tested on the Uniform Bar Examination. The hours of study may be earned through remote instruction that meets the definition of "distance education

course" set out in the American Bar Association Standards and Rules of Procedure for Approval of Law Schools.

(5) *Multistate Professional Responsibility Examination*. An applicant for admission by examination may be admitted to the Bar only if that applicant has also taken the Multistate Professional Responsibility Examination (MPRE) written and administered by NCBE and has received the minimum grade required by the Committee. Arrangements to take the MPRE, including the payment of any fees for it, must be made directly with NCBE. The score received on the MPRE may not be used in connection with the scoring of the bar examination.

(6) *Examination Instructions*. Applicants are responsible for reviewing and complying with the examination instructions included on the application and posted on the Committee's website. An applicant's failure to comply with the Committee's instructions during administration of the examination may result in dismissal from the examination site or invalidation of the examination score, as appropriate.

(7) *General Considerations Regarding the Examination*.

(A) *In General*. The examination is the Uniform Bar Examination (UBE) developed by NCBE. The UBE consists of a written component, consisting of the Multistate Essay Examination (MEE) and the Multistate Performance Test (MPT), and a multiple choice component, which is the Multistate Bar Examination (MBE).

(B) *Transferrable UBE Score*. To earn a transferrable UBE score, an applicant must take both the written and MBE components in a single administration of the examination.

(8) *Computation of Written Component Scaled Scores*. The raw scores on the written and MBE components will be converted to scaled scores by NCBE in accordance with UBE policies.

(9) *Determining Pass/Fail Status*.

(A) *Passing Score*. An applicant must attain a combined UBE scaled score of 266 or greater to pass the examination.

(B) *Review by Committee*. Before notice and publication of the examination results, the Committee must review the written component answers of all applicants who have attained a combined UBE scaled score within a specified number of points below the passing score, as determined by the Committee.

(10) *Time of Notice and Publication of Results*. Applicants will be notified in writing of the results of their examination.

(A) *Successful Applicants*. The Director will notify each successful applicant of his or her written component scaled score, MBE scaled score, and combined UBE scaled score. Thereafter, an alphabetical list of the successful applicants will be published with a request that any information tending to affect the eligibility of an applicant on character and fitness grounds be

furnished to the Committee. The publication will be made at least 2 weeks before the Committee reports to the court.

(B) *Unsuccessful Applicants*. The Director will notify in writing each unsuccessful applicant of the applicant's score. The notification will contain the applicant's raw score for each question in the written component, the written component scaled score, the MBE scaled score, and the combined UBE scaled score.

(11) *Post-examination Review*. Examination scores will not be adjusted after publication, but unsuccessful applicants may review their graded written component answers by executing and returning the review request form so that it is received by the Director by the 30th day after examination results are published. A review of the MBE answer sheet is not available. The Director will advise the unsuccessful applicant regarding how the written component answers may be reviewed.

(12) *Destruction of the Written Component Answers*. Destruction of the applicant answers in the written examination component may commence 30 days after the date of publication of the examination results, but destruction of the written component answers of an unsuccessful applicant who takes advantage of the post-examination review procedure will be delayed until at least 15 days after the review.

(13) *Previous Failures*. An applicant who on 4 separate occasions has taken a bar examination in the District of Columbia or a UBE, and who has failed to earn a passing score of at least 266 in a single administration, will not be permitted to take a further examination in the District of Columbia, except upon a showing of extraordinary circumstances.

(14) *Communication with Committee Members and Graders*. An applicant must not communicate with Committee members or graders concerning any applicant's performance on the examination.

(d) *Admission by Transfer of a Uniform Bar Examination Score Attained in Another Jurisdiction.*

(1) *Application*. An applicant seeking admission to this Bar on the basis of a UBE score attained in another jurisdiction must submit an application in the format required by the Committee.

(2) *Fees*. The application must be accompanied by payment or proof of payment in accordance with instructions provided by the Director.

(3) *Admission Requirements*. An applicant may be admitted to the Bar of this court on the basis of a UBE score attained in another jurisdiction if:

(A) The combined UBE scaled score earned in a single administration of the examination, as certified by NCBE, is not less than 266;

(B) The combined UBE scaled score was attained not more than 5 years before the filing of the application;

(C) The combined UBE scaled score being relied upon for admission was attained by taking the UBE no more than 4 times, including any attempts in the District of Columbia;

(D) The applicant has been awarded a J.D. or LL.B. degree by a law school which, at the time of the awarding of the degree, was approved by the ABA; or, if the applicant graduated from a law school not approved by the ABA, the applicant successfully completed at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA, with all such 26 credit hours having been earned in courses of study, each of which is substantially concentrated on a single subject tested on the UBE and which, if earned through remote instruction, meet the definition of "distance education course" set out in American Bar Association Standards and Rules of Procedure for Approval of Law Schools; and

(E) The applicant has also taken the MPRE written and administered by NCBE and received the minimum grade required by the Committee.

(e) *Admission Without Examination of Members of the Bar of Other Jurisdictions.*

(1) *Application*. An applicant seeking admission to this Bar based on membership in the bar of another state or territory must submit an application in the format required by the Committee.

(2) *Fees*. The application must be accompanied by payment or proof of payment in accordance with instructions provided by the Director.

(3) *Admissions Requirements*. An applicant may be admitted to the Bar of this court without examination in this jurisdiction, if the applicant:

(A) has been a member in good standing of a bar of a court of general jurisdiction in the United States for a period of at least 3 years immediately preceding the filing of the application; or

(B) (i) has been awarded a J.D. or LL.B. degree by a law school which, at the time of the awarding of the degree, was approved by the ABA; or, if the applicant graduated from a law school not approved by the ABA, the applicant successfully completed at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA, with all such 26 credit hours having been earned in courses of study, each of which is substantially concentrated on a single subject tested on the UBE and which, if earned through remote instruction, meet the definition of "distance education course" set out in American Bar Association Standards and Rules of Procedure for Approval of Law Schools;

(ii) has been admitted to the practice of law in any state or territory of the United States upon the successful completion of a written bar examination and has received a scaled score of 133 or more on the MBE which the state or territory deems to have been taken as a part of such examination;

(iii) has obtained the score in a bar examination administered by July 2021, and has applied for admission to this Bar by March 31, 2022; and

(iv) has taken and passed, in accordance with Rule 46(c)(5), the MPRE.

(f) *Special Legal Consultant*s.

(1) *Licensing Requirements*. In its discretion, the court may license to practice as a Special Legal Consultant, without examination, an applicant who:

(A) has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and is in good standing as an attorney or counselor at law (or the equivalent of either) in that country;

(B) possesses the good moral character and general fitness requisite for a member of the Bar of this court;

(C) intends to practice as a Special Legal Consultant in the District of Columbia and to maintain an office for such practice in the District of Columbia which, if the applicant is a teacher of law at a law school approved by the American Bar Association, may be the office of the teacher at the law school; and

(D) is at least 26 years of age.

(2) *Filings Required*. An applicant for a license to practice as a Special Legal Consultant must file with the Committee:

(A) an application in the form required by the Committee addressed to the court in executive session, which without further order of the court will be referred to the Committee;

(B) payment in accordance with instructions provided by the Director;

(C) a certificate from the authority in the foreign country having final jurisdiction over professional discipline, certifying to the applicant's admission to practice (or the equivalent of such admission) and the date thereof and to the applicant's good standing as attorney or counselor at law (or the equivalent of either), together with a duly authenticated English translation of such certificate if it is not in English; and

(D) a summary of the law and customs of the foreign country that relate to the opportunity afforded to members of the Bar of this court to establish offices for the giving of legal advice to clients in such foreign country.

(3) *Waiver of Provisions*. Upon a showing that strict compliance with the provisions of Rule 46(f)(2) is impossible or very difficult for reasons beyond the control of the applicant, or upon a showing of exceptional professional qualifications to practice as a Special Legal Consultant, the court may, in its discretion, waive or vary the application of such provisions and permit the applicant to make such other showing as may be satisfactory to the court.

(4) *Investigation; Report*. The Committee may investigate the qualifications, moral character, and general fitness of any applicant for a license to practice as a Special Legal Consultant and may in any case require the applicant to submit any additional proof or information as the Committee may deem appropriate. The Committee may also require the applicant to submit a report from the National Conference of Bar Examiners, and to pay the prescribed fee therefor, with respect to the applicant's character and fitness.

(5) *Opportunity to Establish Law Office in Applicant's Country of Admission*. In considering whether to license an applicant to practice as a Special Legal Consultant, the court may in its discretion take into account whether a member of the Bar of this court would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission. Any member of the Bar who is seeking or has sought to establish an office in that country may request the Court to consider the matter, or the Court may do so sua sponte.

(6) *Scope of Practice*. A person licensed to practice as a Special Legal Consultant may render legal services in the District of Columbia, notwithstanding the prohibitions of Rule 49(b), subject, however, to the limitations that any person so licensed must not:

(A) appear for a person other than himself or herself as attorney in any court, before any magistrate or other judicial officer, or before any administrative agency, in the District of Columbia (other than upon admission pro hac vice in accordance with Rule 49(b) or any applicable agency rule) or prepare pleadings or any other documents or issue subpoenas in an action or proceeding brought in any such court or agency or before any such judicial officer;

(B) prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;

(C) prepare:

(i) any will or trust instrument effecting the disposition on death of any property located in the United States and owned, in whole or in part, by a resident thereof; or

(ii) any instrument relating to the administration of a decedent's estate in the United States;

(D) prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States or the custody or care of one or more children of any such resident;

(E) render professional legal advice on or under the law of the District of Columbia or of the United States or of any state, territory, or possession thereof (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person acting as counsel to such Special Legal Consultant (and not in his or her official capacity as a public employee) duly qualified and entitled (other than by virtue of having been licensed as a Special Legal Consultant under this Rule 46(f)) to render professional legal advice in the District of Columbia on such law who has been consulted in the particular matter at hand and has been identified to the client by name;

(F) in any way hold himself or herself out as a member of the Bar of this court; or

(G) use any title other than one or more of the following, in each case only in conjunction with the name of the person's country of admission:

(i) "Special Legal Consultant";

(ii) such Special Legal Consultant's authorized title in foreign country of his or her admission to practice;

(iii) the name of such Special Legal Consultant's firm in that country.

(7) *Disciplinary Provisions*.

(A) *In General*. Every person licensed to practice as a Special Legal Consultant under Rule 46(f) is subject to the Rules of Professional Conduct of this jurisdiction to the extent applicable to the legal services authorized under Rule 46(f), is subject to censure, suspension, or revocation of his or her license to practice as a Special Legal Consultant by the court, and must execute and file with the Clerk, in such form and manner as the court may prescribe:

(i) a written commitment to observe the Rules of Professional Conduct;

(ii) an undertaking or appropriate evidence of professional liability insurance, in such amount as the court may prescribe, to assure the Special Legal Consultant's proper professional conduct and responsibility;

(iii) a duly acknowledged instrument in writing setting forth the Special Legal Consultant's address in the District of Columbia and designating the Clerk of the D.C. Court of Appeals as his or her agent upon whom process may be served, with like effect as if served personally upon the Special Legal Consultant, in any action or proceeding thereafter brought against the Special Legal Consultant and arising out of or based upon any legal services rendered or offered to be rendered by the Special Legal Consultant within or to residents of the District of Columbia, whenever after due diligence service cannot be made upon the Special Legal Consultant at such address or at such new address in the District of Columbia as he or she filed in the office of the Clerk by means of a duly acknowledged supplemental instrument in writing; and

(iv) a written commitment to notify the Clerk of the Special Legal Consultant's resignation from practice in the foreign country of his or her admission or of any censure in respect of such admission, or of any suspension or revocation of his or her right to practice in such country.

(B) *Service on Clerk.* Service of process on the Clerk pursuant to the designation filed as aforesaid must be made by personally delivering to and leaving with the Clerk, or with a deputy or assistant authorized by the Clerk to receive service, at the Clerk's office, duplicate copies of such process together with a fee of $10.00. Service of process is complete when the Clerk has been served. The Clerk must promptly send one of the copies to the Special Legal Consultant to whom

the process is directed, by certified mail, return receipt requested, addressed to the Special Legal Consultant at the address given to the court by the Special Legal Consultant as aforesaid.

(C) *Sanction*. In imposing any sanction authorized by Rule 46(f)(7)(A), the court may act sua sponte, on recommendation of the Board on Professional Responsibility, or on complaint of any person. To the extent feasible, the court must proceed in a manner consistent with its Rules Governing the Bar of the District of Columbia.

(8) *Affiliation with the District of Columbia Bar*.

(A) *In General*. A Special Legal Consultant licensed under Rule 46(f) is not a member of the District of Columbia Bar, but a Special Legal Consultant is considered an affiliate of the Bar subject to the same conditions and requirements as are applicable to an active or inactive member of the Bar under the court's Rules Governing the Bar of the District of Columbia, insofar as such conditions and requirements may be consistent with the provisions of Rule 46(f).

(B) *Oath*. A Special Legal Consultant licensed under Rule 46(f) must, upon being so licensed, take the following oath before this court, unless granted permission to take the oath in absentia: "I, _____, do solemnly swear (or affirm) that as a Special Legal Consultant with respect to the laws of_____, licensed by this court, I will demean myself uprightly and according to law."

(g) *Moral Character and General Fitness to Practice Law*. The applicant has the burden of demonstrating, by clear and convincing evidence, that the applicant possesses good moral character and general fitness to practice law in the District of Columbia.

(h) *Essential Eligibility Requirements*.

(1) *In General*. In determining whether an applicant possesses the requisite good moral character and general fitness to be admitted to the Bar in the District of Columbia, the Committee must consider among other factors the following:

(A) misconduct in employment;

(B) acts involving dishonesty, fraud, deceit, or misrepresentation;

(C) abuse of legal process, including the filing of vexatious lawsuits;

(D) neglect of financial responsibilities;

(E) neglect of professional obligations;

(F) violation of an order of a court, including any child support order;

(G) evidence of a mental health disorder that impairs fitness to practice law;

(H) evidence of a substance use disorder;

(I) denial of admission to the bar in another jurisdiction on character and fitness grounds;

(J) disciplinary action by an attorney disciplinary agency or other professional disciplinary agency of any jurisdiction;

(K) material information omitted from or misrepresented in the application; and

(L) evidence that the applicant has not demeaned himself or herself uprightly in any court or when interacting with a court, an opposing party or counsel, or during the application process when seeking admission.

(2) *Weight and Significance of Prior Conduct*. The Committee will consider the following in assigning weight and significance to prior conduct:

(A) the applicant's age at the time of the conduct;

(B) the recency of the conduct;

(C) the reliability of the information concerning the conduct;

(D) the seriousness of the conduct;

(E) the factors underlying the conduct;

(F) the cumulative effect of the conduct or information;

(G) evidence of rehabilitation;

(H) the applicant's positive contributions to the community since the conduct;

(I) the applicant's candor and comportment in the admissions process; and

(J) the materiality of any omissions or misrepresentations.

(i) *Hearing by the Committee*.

(1) *In General*. In determining whether an applicant possesses the requisite good moral character and general fitness for admission to the Bar, the Committee may act without requiring the applicant to appear before it to be sworn and interrogated or may require the applicant to appear for an informal hearing. If the Committee is unwilling to certify an applicant after an informal hearing, the Committee must send a notice by certified mail to the address appearing on the application. The notice must indicate:

(A) the adverse matters on which the Committee relied in denying certification; and

(B) the choice of withdrawing the application or requesting a formal hearing.

(2) *Requesting Formal Hearing*. Within 30 days after receiving the notice, the applicant may file with the Committee a written request for a formal hearing. If the applicant fails to file a timely request for a formal hearing, the applicant's application will be deemed withdrawn. If the applicant requests a formal hearing within the 30-day period, the request will be granted.

(3) *Rules of Procedure for the Formal Hearing*. The formal hearing must be conducted by the Committee under the following rules of procedure:

(A) *Notice; Applicant's Rights*. The Director will give the applicant no less than 10 days' notice of:

(i) the date, time, and place of the formal hearing;

(ii) the adverse matters upon which the Committee relied in denying admission;

(iii) the applicant's right to review in the office of the Director those matters in the Committee file pertaining to the applicant's character and fitness upon which the Committee may rely at the hearing; and

(iv) the applicant's right to be represented by counsel at the hearing, to examine and cross-examine witnesses, to adduce evidence bearing on moral character and general fitness to practice law and, for such purpose, to make reasonable use of the court's subpoena power.

(B) *Privacy; Evidence*. The hearing before the Committee is private unless the applicant requests that it be public. The hearing will be conducted in a formal manner, but the Committee is not bound by the formal rules of evidence. The Committee may, in its discretion, take evidence in other than testimonial form and determine whether evidence to be taken in testimonial form will be taken in person at the hearing or by deposition. The proceedings must be recorded, and the applicant may order a transcript at the applicant's expense.

(C) *Report.* If after the hearing, the Committee determines that an adverse report should be made, the Committee will serve the applicant with a copy of the report of the Committee's findings and conclusions and permit the applicant to withdraw the application within 15 days after being served with the report. The Committee may, in its discretion, extend this time. If the applicant elects not to withdraw, the Committee will deliver a report of its findings and conclusions to the court with service on the applicant.

(j) *Review by the Court.*

(1) *In General*. If after receiving a Committee report, the court proposes to deny admission, the court will order the applicant to show cause why the application should not be denied. Proceedings under this Rule 46(j) will be heard by the court on the record made by the Committee on Admissions.

(2) *Extraordinary Circumstances*. Except for the court review provided in Rule 46(j)(1), the court will not review actions by or proceedings before the Committee except upon a showing:

(A) of extraordinary circumstances for instituting such review; and

(B) that an application for relief has previously been made in the first instance to the Committee and been denied by the Committee, or that an application to the Committee for the relief is not practicable.

(k) *Admission Order*.

(1) The Committee will file with the court a motion to admit the successful applicants by examination, or a certification of attorneys for admission by transferred UBE score or of attorneys for admission without examination, after successful completion of a character and fitness study.

(2) An applicant whose name is on an order of admission entered by the court or who is certified for admission by the Committee without a formal hearing must complete admission within 150 days from the date of the order or the certification by taking the oath as required by Rule 46(l) and submitting to the court a notarized statement or a declaration that includes the oath.

(3) An applicant who fails to take the oath and submit the required notarized statement or declaration to the court within 150 days from the date of the admission order or the certification may file, within one year from the date of the order or certification, an affidavit with the Director explaining the cause of the delay. Upon consideration of the affidavit, the Committee may reapprove the applicant and file a supplemental motion with the court or may deny the applicant's admission and direct the applicant to file a new application for admission.

(l) *Oath.*

(1) *In General*. An applicant admitted to the Bar of this court must take the following oath, either before a notary or as reflected in a declaration in the format required by Rule 46(1)(2):

"I_____ do solemnly swear (or affirm) that as a member of the Bar of this court, I will demean myself uprightly and according to law; and that I will support the Constitution of the United States of America."

(2) *Notarized Statement or Declaration*. The notarized statement or declaration must include the oath in Rule 46(1)(1). A declaration in the following format may be used in lieu of notarization:

"I declare, under penalty of perjury under the laws of the District of Columbia, that I have taken the oath quoted in this declaration.

Signed on the __ day of ____, 20__ at _(city)_, (state), (country)____.

Printed name _____
Signature _____"

Rule 46-A. Admission to the Bar Based on COVID-19 Emergency Examination Waiver.

(a) Eligibility Requirements. A person may be admitted to the Bar of this jurisdiction if the person:

(1) received a J.D. degree in 2019 or 2020 from an ABA-approved law school;

(2) has or had timely completed an application, including payment of the required fee, to take a bar examination scheduled to be administered in this jurisdiction in 2020;

(3) has not been admitted to a bar in a different jurisdiction, sat for a bar examination in this or another jurisdiction, accessed bar examination materials remotely in this or another jurisdiction, failed a bar examination in this or another jurisdiction, or had a bar application denied;

(4) has passed the Multistate Professional Responsibility Exam, as provided in D.C. App. R. 46(c); and

(5) demonstrates good moral character and general fitness to practice law, as required by D.C. App. R. 46(g).

(b) Application. A person seeking to be admitted under this rule shall submit an application to the Director of Admissions, using a separate application form to be developed and to be approved by the Committee on Admissions. Applications may be submitted beginning at 10 a.m. Eastern time on January 11, 2021, and must be submitted by 5 p.m. on April 30, 2021. The application shall be accompanied by (1) a payment to the Clerk, D.C. Court of Appeals, in an amount and form approved by the Committee and specified by the Director, and (2) payment to the National Conference of Bar Examiners (NCBE), or proof of payment to NCBE, in an amount and form specified on the application form.

(c) Procedures. Applications under this rule will be handled under the procedures established in D.C. App. R. 46(g)-(l).

(d) Additional Requirements. A person admitted under this rule:

(1) must complete the Mandatory Course on the District of Columbia Rules of Professional Conduct and District of Columbia Practice presented by the D.C. Bar (see D.C. Bar R. II, § 3) within sixty days of being admitted;

(2) for three years after admission, must practice under the direct supervision of an enrolled, active member of the D.C. Bar who (a) has practiced law in the District of Columbia for at least five years; (b) is in good standing, has never been disbarred or resigned from any bar with disciplinary charges pending, and has no pending disciplinary charges in any jurisdiction or court; (c) is the person's employer, works for the person's employer or law firm, or works for a non-profit organization in the District of Columbia that provides legal services to people of limited means at no charge or for a limited processing fee; and (d) takes responsibility for the quality of the person's work and complaints concerning that work; and

(3) for three years after admission, gives prominent notice in all business documents that the person's practice is supervised by one or more D.C. Bar members and that the person was "admitted to the Bar under D.C. App. R. 46-A (Emergency Examination Waiver)."

(e) Waiver. Upon motion filed with the court showing extraordinary circumstances relating to the COVID-19 pandemic, the court may waive one or more of the eligibility requirements provided in (a)(1), (a)(2), and (a)(3).

Rule 46-B. Temporary Admission to the Bar for Military Spouse Attorneys.

(a) Definition. As used in this Rule, the term "military spouse attorney" means an attorney who (1) is admitted to the practice of law and maintains membership in good standing in the bar of another jurisdiction in the United States but is not admitted in the District of Columbia, (2) is married to or is the registered domestic partner of an active duty service member of the United States Armed Forces, and (3) resides in the District of Columbia or in a contiguous jurisdiction because of the service member's military orders for a Permanent Change of Station to the District of Columbia or a contiguous jurisdiction. If the service member does not have a Permanent Change of Station to the District of Columbia or a contiguous jurisdiction but the applicant has a good faith belief that the service member's deployment to this area is expected to last more than 365 days, the applicant may satisfy section (a)(3) by so averring in a statement made under oath.

(b) Eligibility. To obtain authorization to practice under this Rule, the military spouse attorney must submit an online application through the Committee on Admissions website and pay to the National Conference of Bar Examiners (NCBE) a background investigation fee in an amount and form specified in the online application. The online application requires submission of:

(1) evidence that the applicant is a graduate of an ABA-approved law school with a J.D. or LL.B. degree;

(2) certification that the applicant is, and for at least one year prior to the application has been, a member in good standing of the bar of another jurisdiction in the United States;

(3) a statement by the applicant certifying that the applicant has not had an application for admission to the Bar of this jurisdiction or the bar of any jurisdiction denied on character or fitness grounds;

(4) a letter from disciplinary counsel in each jurisdiction where the applicant is admitted to practice stating that the applicant is not currently subject to attorney discipline or the subject of a pending disciplinary matter;

(5) a copy of the service member's military orders reflecting a Permanent Change of Station to a military installation in the District of Columbia or a contiguous jurisdiction or a deployment to this area that the applicant expects to last more than 365 days;

(6) a certificate from or on behalf of the Department of Defense or a unit thereof acceptable to the Clerk of the Court of Appeals attesting that the military spouse attorney is the spouse or registered domestic partner of the service member;

(7) a statement by the applicant certifying that the applicant resides in the District of Columbia or a contiguous jurisdiction or intends to do so within the next three months; and

(8) an application fee in an amount and form approved by the Committee and specified in the online application.

(c) Certificate of Authorization to Practice. Upon the filing of the application and documentation required by this Rule and if, after such investigation as the court may deem appropriate, the court concludes that the applicant possesses the requisite qualifications, the applicant shall be certified for admission and issued a temporary license to practice law in this jurisdiction and enrolled as a temporary member of the Bar of this jurisdiction. Following certification for admission, the applicant must complete admission by taking the oath as required by Rule 46(l) and submitting to the court a notarized statement or a declaration that includes the oath. The Clerk shall issue a certificate under the seal of the Court certifying that the attorney is authorized to practice under this rule for a period not to exceed two years. The certificate shall state the effective date and the expiration date of the special authorization to practice.

(d) Automatic Termination. Authorization to practice under this Rule is automatically terminated upon the expiration of two years from the effective date of the certificate of authorization or if the attorney is no longer a member in good standing of the bar of any other jurisdiction to which the attorney has been admitted.

(e) Application for Rule 46 Admission. A military spouse attorney who intends to practice law in this jurisdiction for more than two years should apply for admission to the Bar of this jurisdiction under Rule 46. The application process for admission to the Bar of this jurisdiction may be commenced and completed while the military spouse attorney is practicing under this Rule. The Director of Admissions may establish a discounted application fee for applicants admitted under Rule 46-B to be admitted under Rule 46.

(f) Disciplinary Proceedings in Another Jurisdiction. Promptly upon the filing of a disciplinary proceeding in another jurisdiction, a military spouse attorney shall notify the Office of Disciplinary Counsel and the Clerk of the disciplinary matter. A military spouse attorney who in another jurisdiction (1) is disbarred, suspended, or otherwise disciplined, (2) resigns from the bar while disciplinary or remedial action is threatened or pending in that jurisdiction, or (3) is placed on inactive status based on incapacity shall inform the Office of Disciplinary Counsel, the Committee on Admissions if an application for admission under Rule 46 is pending, and the Clerk promptly of the discipline, resignation, or inactive status.

(g) Attorneys licensed under this rule shall be entitled to all privileges, rights, and benefits and will be subject to all dues requirements, duties, ethical obligations, disciplinary rules, and responsibilities of active members of the Bar of this jurisdiction, including the requirements to comply with this jurisdiction's Rules of Professional Conduct and to complete the Mandatory Course on the District of Columbia Rules of Professional Conduct and District of Columbia Practice required for new admittees to the District of Columbia Bar within twelve months after authorization to practice. See D.C. Bar Rule II, section 2.

(h) An attorney licensed under this rule must give prominent notice in all business documents that the person was "admitted to the Bar under Rule 46-B (Temporary admission for military spouse attorneys)" and must identify the other jurisdiction(s) in which he or she is licensed to practice law.

(i) An applicant for authority to practice under this Rule may practice while awaiting a decision on the application, subject to the requirements of Rule 49(c)(8)(A)(iii) and (iv).

(j) A military spouse attorney may use time in practice under this Rule to satisfy the years-in-practice requirement of Rule 46(b)(1)(B)(iv).

Rule 47. Masters.

(a) Appointment; Powers. The court may appoint a special master to held hearings, if necessary, and to recommend factual findings and disposition in matters ancillary to proceedings in the court. Unless the order referring a matter to a master specifies or limits the master's powers, those powers include, but are not limited to, the following:

(1) regulating all aspects of a hearing;

(2) taking all appropriate action for the efficient performance of the master's duties under the order;

(3) requiring the production of evidence on all matters embraced in the reference; and

(4) administering oaths and examining witnesses and parties.

(b) Compensation. If the master is not a judge or court employee, the court must determine the master's compensation and whether the cost is to be charged to any party.

Rule 48. Legal Assistance by Law Students.

(a) Practice.

(1) Pursuant to these rules and as part of a clinical program, an eligible law student may engage in the limited practice of law in the District of Columbia. For purposes of applying this rule, the practice of law shall have the same meaning as it has in D.C. App. R. 49, which defines the unauthorized practice of law. Nevertheless, an eligible student shall not represent a client in any adult criminal case involving a felony in the Superior Court of the District of Columbia. This prohibition on practice in felony cases shall not apply to parole revocation hearings or prison disciplinary actions or to appeals before the District of Columbia Court of Appeals. If the representation occurs before the Superior Court of the District of Columbia, the Office of Administrative Hearings, or an agency of the District of Columbia, the law student must also comply with the rules of that court, agency, or tribunal with respect to student practice. After complying with the certification requirements of this rule, an eligible law student may also engage in the limited practice of law pursuant to the rules of any court, agency, or tribunal of another state of the United States, an international tribunal, or a court or agency of another country which by rule of such court, agency, or tribunal permits such appearance as part of a clinical program. This rule does not govern practice before courts, departments, or agencies of the United States which, by rule or regulation, permit practice by law students. Students practicing pursuant to these rules in a clinical program, as hereinafter defined, may represent any client who is indigent or who, because of limited financial ability or the nature of the claim, would be unlikely to obtain legal representation, or any non-profit organization, if the client or non-profit organization has consented in writing to that appearance or representation. A "supervising lawyer," as hereinafter defined or defined by the relevant non-District of Columbia tribunal, must indicate in writing an approval of the student's appearance or representation.

(i) When appearing in any court or agency of the United States or another state of the United States, an international tribunal, or a court or agency of another country, law students and their supervisors shall be bound by the rules of that tribunal governing eligibility to practice and standards of practice and by the ethical rules of that tribunal or by the District of Columbia Rules of Professional Conduct pursuant to Rule 8.5.

(ii) Students practicing pursuant to this rule must give prominent notice in all business documents of the students' status and that their practice is limited to matters related to the District of Columbia or other state, federal, or foreign court or agency that permits their participation.

(iii) The Office of Administrative Hearings and agencies of the District of Columbia may adopt rules governing student practice. If their rules permit, a student may practice before those agencies and tribunals without being enrolled in a clinical program, provided that the student meets the requirement of D.C. App. R. 49(c)(5).

(2) An eligible law student may also appear in the Superior Court of the District of Columbia in any criminal case not involving a felony and, irrespective of the nature of the crime, any appeal in the District of Columbia Court of Appeals, any parole revocation or prison disciplinary action, or civil, family, or juvenile matter on behalf of the United States or the District of Columbia with the

written approval of the United States Attorney or the Attorney General for the District of Columbia or their authorized representatives and the "supervising lawyer."

(3) In accordance with D.C. App. R. 49, the "limited practice of law" described in section (a)(1) includes the following so long as the actions are guided by a supervising lawyer as defined by these rules or the rules of the tribunal in which presentation is provided:

(i) Preparing any legal document, including any deeds, mortgages, assignments, discharges, leases, trust instruments or any other instruments intended to affect interests in real or personal property, wills, codicils, instruments intended to affect the disposition of property of decedents' estates, and other instruments intended to affect or secure legal rights;

(ii) Preparing or expressing legal opinions;

(iii) Appearing before any tribunal that permits student practice;

(iv) Preparing any claims, demands or pleadings of any kind, or any written documents containing legal argument or interpretation of law, for filing in any court, administrative agency or other tribunal that permits student practice;

(v) Providing advice or counsel as to how any of the activities described in sub-paragraph (A) through (D) might be done, and whether they were done in accordance with applicable law.

(4) In each case the written consent and approval referred to in (a) (1) and (a) (2) shall be filed in the record of the case. If representation does not entail a court appearance, such consent shall be part of any retainer agreement entered into by the client.

(5) A "clinical program" is a law school program for credit, held under the direction of a faculty member of such law school, in which a law student obtains practical experience in the practice of law or in the operation of the District of Columbia legal system by participating in cases and matters pending before the courts or administrative tribunals, or by otherwise providing legal services to clients with regard to legal issues.

(b) Requirements and Limitations. To be eligible to engage in the practice of law pursuant to this rule, the law student must:

(1) Be enrolled in a District of Columbia law school approved by the American Bar Association and the Admissions Committee of this Court, and be enrolled in a clinical course at such law school. A supervised student need not be so enrolled if that student has satisfactorily completed a clinical course in a District of Columbia law school and is either still in law school or working for the clinic in the summer after graduation and is continuing to represent clients of the clinical program. Notice of an extension to continue practice under this rule must be sent by the Dean to the Committee on Admissions. Such extension may be permitted only once and may remain in effect for six months.

(2) Have successfully completed one-third of his or her legal studies. Law schools shall establish appropriate pre- and co-requisite instruction to ensure that students are prepared to provide legal representation to clients.

(3) Be certified by the dean of the law school as being of good character and competent legal ability, and as being adequately trained to engage in the limited practice of law as defined by these rules.

(4) Be registered with the Unauthorized Practice of Law Committee of this Court.

(5) Neither ask for nor receive a fee of any kind for any services provided under this rule from any client. Payment of a student research stipend or other law school based support, or a similar grant to a law student or a recent graduate who continues to work on clinic cases after the completion of the clinical course shall not make that student ineligible to practice under this rule. Nothing in this rule shall prevent a law school clinic from receiving court-ordered or statutory fees or court-ordered sanctions related to a case or legal matter.

(6) Certify in writing that the student has read and is familiar with the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct.

(c) Certification.

(1) A certification of a student by the law school dean:

(i) Shall be filed with the Committee on Admissions and, unless it is sooner withdrawn, it shall remain in effect until the expiration of one year after it is filed, or until the announcement of the results of the first bar examination given by the Admissions Committee of this Court following the student's graduation, whichever is earlier. The certification may be continued in effect for any student who passes that examination until the student is either admitted by this court or denied admission to the Bar by the Admissions Committee. The certification may also be extended one time for six months if the supervised student has satisfactorily completed a clinical course and is either still in law school or working for the clinic during the summer, and is continuing to represent clients of a clinical program.

(ii) May be withdrawn by the dean at any time by mailing a notice to that effect to the Committee on Admissions. It is not necessary that the notice state the cause for withdrawal.

(iii) May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination shall be filed with the Committee on Admissions and a copy thereof sent to the law school dean of the particular student.

(iv) Once the certification is delivered to the court, the student shall be registered with the Unauthorized Practice Committee and a Student Bar membership card shall be issued.

(2) A certification of the clinical course by the law school dean:

(i) Shall accompany the Dean's certification of the student.

(ii) Shall certify that the clinical course and the pre- or co-requisite instruction are designed to provide the student with classroom or individual instruction to ensure that the student knows and understands the substantive, procedural and evidentiary law required to provide competent representation.

(d) Other Activities.

(1) In addition to participating in pending cases and matters as provided in section (a)(1) of this rule, an eligible student may engage in other activities of the "clinical program" under the general supervision, but outside the physical presence, of the supervising lawyer, including those actions defined herein as the "limited practice of law." with the exception of the following: appearing before a tribunal unless the tribunal consents with respect to a non-contested matter; conducting depositions; engaging in contract closings; and engaging in final settlement agreements.

(2) All pleadings, briefs, and other documents prepared for a case and delivered to any tribunal, opposing or co-counsel, clients, or other persons involved in the matter for which representation is provided pursuant to these rules must be signed by the student and the supervisor.

(3) An eligible law student may participate in oral argument in this Court in the presence of the supervising lawyer in any appeal, including felony and misdemeanor cases, provided that there is filed with the Clerk a written consent from the client to that appearance and the supervising lawyer indicates in writing approval of that appearance.

(e) Supervision. The "supervising lawyer" referred to in this rule shall:

(1) Be a lawyer whose service as a supervising lawyer for the clinical program is approved by the dean of the law school in which the law student is enrolled.

(2) Assume full responsibility for guiding the student's work in any pending case or matter or other activity in which the student participates and for supervising the quality of that student's work.

(3) Assist the student in preparation of the case or matter, to the extent necessary in the supervising lawyer's professional judgment to insure that the student's participation is effective on behalf of any client represented.

(4) Except as provided below for new and visiting faculty members, be an "active" member of the District of Columbia Bar as set forth in the rules of this court governing the Bar of the District of Columbia.

(i) New Faculty Members.

(A) A supervisor who joins a District of Columbia law school clinical faculty may supervise students if he or she is an active member in good standing of the highest court of any state, has not

been suspended or disbarred for disciplinary reasons from practice in any court, and is not subject to any pending disciplinary complaints for violations of the rules of any court, provided that the person has submitted an application for admission to the District of Columbia Bar within ninety (90) days after assuming the position of clinical faculty member in the District of Columbia and has submitted an application to the Court of Appeals for a waiver of this rule.

(B) Such faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and connected with the school's clinical program.

(C) Such new faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which, pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

(D) A new faculty member must cease supervising students if his or her application for admission to the Bar is denied.

(ii) Visiting Faculty Members

(A) A supervisor who is a visiting faculty member at a District of Columbia law school for one year or less may supervise students without being a member of the District of Columbia Bar if the visiting faculty member is an active member in good standing of the highest court of any state, has not been suspended or disbarred for disciplinary reasons from practice in any court, is not subject to any pending disciplinary complaints for violations of the rules of any court, and has submitted an application to the Court of Appeals for a waiver of this rule.

(B) The visiting faculty member shall certify in the application for a waiver that he or she has completed the Mandatory Course on the District of Columbia Rules of Professional Conduct and District of Columbia Practice required for new admittees to the District of Columbia Bar.

(C) Such visiting faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and is connected with the school's clinical program.

(D) Visiting faculty may extend their supervisory duties pursuant to this rule for one additional year by filing notice with the District of Columbia Court of Appeals.

(E) Such visiting faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

Rule 49. Unauthorized Practice of Law.

(a) IN GENERAL. No person may practice law in the District of Columbia or hold out as authorized to do so unless:

(1) the person is a D.C. Bar Member; or

(2) the conduct is permitted by one or more of Rules 49(c)(1)-(13).

(b) DEFINITIONS. The following definitions apply to Rule 49:

(1) "Person" means any individual, firm, unincorporated association, partnership, corporation, or other legal or business entity.

(2) "Practice law" means to provide legal services for or on behalf of another person within a client relationship of trust or reliance. A person is presumed to be practicing law when doing the following for or on behalf of another:

(A) preparing any legal document, including a deed, mortgage, assignment, discharge, lease, trust instrument, will, codicil, or contract, except a person is not presumed to be practicing law when preparing a routine agreement incidental to a regular course of business as a non-attorney;

(B) preparing or expressing a legal opinion or giving legal advice;

(C) appearing or acting as an attorney in any tribunal;

(D) preparing any claim, demand, or pleading of any kind, or any written document containing legal argument or interpretation of law, for filing in any government agency, court, or other tribunal;

(E) providing advice or counsel as to how an activity described in Rule 49(b)(2)(A)-(D) might be done, or whether it was done, in accordance with applicable law; or

(F) furnishing an attorney or attorneys, or other persons, to render the services described in Rule 49(b)(2)(A)-(E).

(3) "In the District of Columbia" means at a location within the District of Columbia.

(4) "Hold out as authorized" to practice law in the District of Columbia means to indicate in any manner to any other person that one is competent, authorized, or available to practice law in the District of Columbia. Among the terms that ordinarily give that indication are "esquire," "lawyer," "attorney," "attorney at law," "counsel," "counselor," "counselor at law," "contract lawyer," "trial advocate," "legal representative," "legal advocate," "notario," and "judge."

(5) "Committee" means the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law.

(6) "D.C. Bar Member" means a person who was admitted by the court under Rule 46 or 46-A, and who has taken the oath under Rule 46(l); it does not include persons with inactive, retired,

suspended, or disbarred status, and it does not include special legal consultants as defined in Rule 46.

(7) "Admitted" in a jurisdiction means to be a member in good standing of the legal profession in a state, territory, or foreign country where the members of the profession are admitted to practice as counselors at law or the equivalent, and are subject to effective regulation and discipline by a duly constituted professional body or a public authority; a person is not "admitted" in a jurisdiction if the person was disbarred or suspended for disciplinary reasons, or resigned with charges pending, or if the person has inactive, judicial, or retired status.

(8) "Business document" means any document submitted or made available to any client, third party, the public, or any official entity in connection with a person's provision of legal or law-related services, and may include letters, e-mails, business cards, website biographies, pleadings, filings, discovery requests and responses, formal documents of all kinds, advertisements, and social media.

(9) "Supervise" means to make reasonable efforts to ensure that another person conforms to the applicable Rules of Professional Conduct.

(10) "Regulate" means to control by rule or other restriction. Examples of the regulation of persons who appear on behalf of another in a legal matter include: establishing minimum requirements to ensure the competent and ethical provision of services, requiring familiarity with and adherence to forum procedures, creating a registry of authorized practitioners, and imposing sanctions or disqualification from future practice for misconduct.

(11) "*Pro bono*" means provided without fee or for a nominal processing fee for one or more individuals with limited means.

(12) "Law firm" means an attorney or attorneys in a law partnership, professional corporation, sole proprietorship, or other association engaged in the business of practicing law, but does not include the legal department of a corporation or other organization, or any government entity.

(13) "Appear" means to submit documents or otherwise seek to be heard in a proceeding before a government agency, court, or other tribunal.

(c) ACTIVITIES THAT PERSONS WHO ARE NOT D.C. BAR MEMBERS MAY PERFORM.

(1) *United States Employee.* A person who is not a D.C. Bar Member may provide legal services to the United States as an employee of the United States and may hold out as authorized to provide those services.

(2) *Practice Before Certain Government Agencies.* A person who is not a D.C. Bar Member may provide legal services in or reasonably related to a pending or potential proceeding in any department, agency, or office of the United States or of the District of Columbia, or any tribunal created by an international treaty to which the United States is a party, and may hold out as authorized to provide those services, if:

(A) the services are authorized by statute or by a department, agency, office, or tribunal rule

that expressly permits and regulates practice before the department, agency, office, or tribunal; and

(B) the person gives prominent notice in all business documents specifically concerning practice authorized by Rule 49(c)(2) that the person is not a D.C. Bar Member and that the person's practice in the District of Columbia is limited to providing the types of legal services authorized by one or more of Rule 49(c)(2), (3), (5), (6), (7), (9), (10), (11), or (12), and specifying which of those types of services the person provides in the District of Columbia.

(3) *Practice Before Federal Courts*. A person who is not a D.C. Bar Member may provide legal services in the District of Columbia in or reasonably related to a pending or potential proceeding in any court of the United States, and may hold out as authorized to provide those services, if

(A) the person has been or reasonably expects to be admitted to practice in that court; and

(B) if the person has an office in the District of Columbia, the person gives prominent notice in all business documents that the person is not a D.C. Bar Member and that the person's practice is limited to providing the types of legal services authorized by one or more of Rule 49(c)(2), (3), (5), (6), (7), (9), (10), (11), or (12), and specifying which of those types of services the person provides in the District of Columbia.

The District of Columbia Court of Appeals and the Superior Court of the District of Columbia are not courts of the United States within the meaning of this Rule 49(c)(3).

(4) *District of Columbia Employee*. A person who is not a D.C. Bar Member may provide legal services to the District of Columbia as an employee of the District of Columbia, and may hold out as authorized to provide those services, during the first 365 days of employment as an attorney for the District of Columbia if the person is admitted in another United States jurisdiction.

(5) *Labor Negotiations and Arbitrations*. A person who is not a D.C. Bar Member may provide legal services in or reasonably related to negotiation of, or a grievance arising under, a collective bargaining agreement between a labor organization and an employer, including arbitration of a grievance, and may hold out as authorized to provide those services, if the recipient of the services does not reasonably expect that the services are being provided by a D.C. Bar Member. This Rule 49(c)(5) does not authorize a person to appear in any court, or in any department, agency, or office of the United States or the District of Columbia.

(6) *In-House Counsel*. A person who is not a D.C. Bar Member may provide legal services to the person's employer or its organizational affiliates, and may hold out as authorized to provide those services, if the employer understands that the person is not a D.C. Bar Member. This Rule 49(c)(6) does not authorize a person to appear in any court, or in any department, agency, or office of the United States or the District of Columbia. A person practicing under Rule 49(c)(6) is subject to the power and jurisdiction of the courts of the District of Columbia and must abide by the District of Columbia Rules of Professional Conduct.

(7) *Pro Hac Vice*. A person who is not a D.C. Bar Member may provide legal services in or reasonably related to a pending or potential proceeding in the District of Columbia Court of Appeals or the Superior Court of the District of Columbia, and may hold out as authorized to provide those services, if the person has been or reasonably expects to be admitted *pro hac vice*,

in accordance with the requirements in Rule 49(c)(7)(A).

(A) *Requirements for Admission Pro Hac Vice*. A person may be admitted *pro hac vice* in the District of Columbia Court of Appeals or the Superior Court of the District of Columbia only if the person:

(i) is admitted in another United States jurisdiction;

(ii) before applying for *pro hac vice* admission, has arranged to be supervised (as defined by Rule 49(b)(9)) by a D.C. Bar Member;

(iii) before applying for *pro hac vice* admission, has read all of this Rule 49(c)(7) and has read either all the rules of the District of Columbia Court of Appeals or all the rules of the relevant division of the Superior Court of the District of Columbia, as applicable to the proceeding for which admission is to be sought;

(iv) does not practice law in the District of Columbia or hold out as authorized to do so other than in the matter for which *pro hac vice* admission is to be sought, except to the extent that the person's practice or holding out is authorized by one or more of Rules 49(c)(1)-(6) or (8)-(12); and

(v) has not applied for admission *pro hac vice* in 5 or more proceedings (excluding *pro bono* proceedings) in the courts of the District of Columbia in the prior 365 days, unless the person reasonably believes good cause exists for the court to grant admission in more than 5 proceedings.

(B) *Applying for Admission Pro Hac Vice*. To apply for admission *pro hac vice* in the District of Columbia Court of Appeals or Superior Court of the District of Columbia, a person must:

(i) prepare an application in which the person, under penalty of perjury:

(a) declares that the person meets all of the requirements in Rule 49(c)(7)(A);

(b) identifies all United States states or territories where the applicant is admitted to practice and the applicant's bar number in each of those jurisdictions;

(c) declares that no disciplinary complaints are pending against the applicant, or describes all pending complaints;

(d) declares that the applicant has never been denied admission to the District of Columbia Bar, or describes the circumstances of any denials;

(e) identifies the name, address, and D.C. Bar number of the D.C. Bar Member who has agreed to supervise the person under Rule 49(c)(7)(A)(ii);

(f) if the person practices law in the District of Columbia or holds out as authorized to do so other than in the matter for which *pro hac vice* admission is sought, explains the reasons one or more of Rules 49(c)(1)-(12) authorize all aspects of the person's practice or holding out;

(g) if the person applied for admission *pro hac vice* in 5 or more proceedings (excluding

pro bono proceedings) in the courts of the District of Columbia in the prior 365 days, sets forth grounds constituting good cause for the court to grant admission notwithstanding Rule 49(c)(7)(A)(v);

(h) acknowledges the power and jurisdiction of the courts of the District of Columbia over the applicant's conduct in or concerning the proceeding;

(i) agrees to abide by the District of Columbia Rules of Professional Conduct in the proceeding if the applicant is admitted *pro hac vice*; and

(j) agrees promptly to notify the court if, during the proceeding, the applicant is suspended or disbarred for disciplinary reasons or resigns with charges pending in any jurisdiction or court.

(ii) submit a copy of the application to the Office of Admissions and pay the required application fee to the Clerk of the District of Columbia Court of Appeals (unless the person's client has been authorized to proceed *in forma pauperis* under Rule 24 or Super. Ct. Civ. R. 54-II); and

(iii) file the application, with a receipt for payment if applicable, in the office of the clerk of the court in which *pro hac vice* admission is sought.

(C) *Power of the Court*. The court in which *pro hac vice* admission is sought may grant or deny applications for admission *pro hac vice*, and may revoke an admission, in its discretion.

(D) *Duties of Persons Admitted Pro Hac Vice*. A person admitted *pro hac vice* is subject to the power and jurisdiction of the courts of the District of Columbia, and must abide by the District of Columbia Rules of Professional Conduct, for conduct in or concerning a proceeding in which the person is admitted *pro hac vice*. A person admitted *pro hac vice* must notify the court promptly if, during the proceeding, the person is suspended or disbarred for disciplinary reasons or resigns with charges pending in any jurisdiction or court.

(8) *While Bar Application Is Pending*.

(A) *In General*. A person who is not a D.C. Bar Member may provide legal services in the District of Columbia, and may hold out as authorized to provide those services, for a period not to exceed 365 days from the start of the practice if:

(i) the person's first application to the District of Columbia Bar is pending;

(ii) the person is admitted in another United States jurisdiction;

(iii) the person is supervised by a D.C. Bar Member on each client matter, and the D.C. Bar Member agrees to be jointly responsible for the quality of the work on each client matter; and

(iv) the person gives prominent notice in all business documents that the person's practice is supervised by one or more D.C. Bar Members and that the person is not a D.C. Bar Member.

(B) *Extension of Time*. On request and for good cause, the Director of the Committee on Admissions may extend beyond 365 days the period during which a person is authorized to practice

by Rule 49(c)(8). A request for an extension must be submitted in writing to the Director at least 14 days before the 365-day period expires, except that for good cause the Director can waive the 14-day requirement. An applicant who has submitted a written request at least 14 days before the end of the 365-day period or who has received a waiver of the 14-day requirement from the Director may continue to practice under Rule 49(c)(8) until the Director renders a decision on the request for an extension of the 365-day period. If the request is granted, the Director must inform the person in writing of the length of the extension.

(9) *Pro Bono*.

(A) *Attorneys Working Pro Bono.* A person who is not a D.C. Bar Member may provide *pro bono* legal services, and may hold out as authorized to provide those services, if the person is not employed by the Public Defender Service or a non-profit organization that provides *pro bono* legal services and:

(i) is or was admitted in another United States jurisdiction, or previously was a D.C. Bar Member;

(ii) was not disbarred or suspended for disciplinary reasons, and has not resigned with charges pending, in any United States jurisdiction or court;

(iii) is supervised by a D.C. Bar Member on each *pro bono* matter;

(iv) gives prominent notice in all business documents specifically concerning each *pro bono* matter that the person's work on the matter is supervised by a D.C. Bar Member and that the person is not a D.C. Bar Member;

(v) if the matter involves appearance in the District of Columbia Court of Appeals or the Superior Court of the District of Columbia, the person, in the first pleading or other document filed with the court, identifies the supervising D.C. Bar Member by name, address, e-mail address, telephone number, and D.C. Bar number; and

(vi) provides services on each *pro bono* matter in affiliation with either:

(a) a non-profit organization in the District of Columbia that routinely provides *pro bono* legal services; or

(b) the legal *pro bono* program of the person's employer, if the employer is not a law firm.

(B) *Law School Graduates Seeking Admission to a Bar*. A person who is not a D.C. Bar Member may provide *pro bono* legal services and may hold out as authorized to provide *pro bono* legal services for a period of no more than 365 days from the start of such practice if:

(i) the person graduated with a J.D. degree from an American Bar Association-approved law school;

(ii) the person has applied to take the bar examination described in Rule 46(c)(7)(A) or 46(d)

in a United States jurisdiction, and, if the applicant has taken the examination but not earned a passing score, is eligible to re-sit for the examination and timely applies to re-sit for the examination at its next administration during the 365-day period;

(iii) the person is trained and supervised by a D.C. Bar Member who is affiliated with the Public Defender Service or a non-profit organization that provides *pro bono* legal services on each *pro bono* matter; and

(iv) the person gives prominent notice in all business documents specifically concerning each *pro bono* matter that the person's work on the matter is supervised by a D.C. Bar Member and that the person is not admitted to practice law in any United States jurisdiction.

(C) *Applicability of Rules of Professional Conduct.* A person practicing under Rule 49(c)(9) is subject to the power and jurisdiction of the courts of the District of Columbia, and must abide by the District of Columbia Rules of Professional Conduct.

(10) *Authorized Court Programs*. A person who is not a D.C. Bar Member may provide legal services as part of a program that has been expressly authorized by the District of Columbia Court of Appeals or the Superior Court of the District of Columbia if the person complies with all requirements that the authorizing court has imposed for the program.

(11) *Organizations in Small Claims or Landlord-Tenant Disputes.* A person who is not a D.C. Bar Member and who is an officer, director, or employee of a corporation, partnership, or similar organization may provide legal services on behalf of the organization in:

(A) an attempt to settle either a landlord-tenant dispute or a dispute that would be within the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia, except that this Rule 49(c)(11)(A) does not authorize an appearance in court;

(B) an appearance in the Landlord and Tenant Branch of the Civil Division of the Superior Court of the District of Columbia solely for the purpose of entry of a consent judgment, if the person at the time of appearing files a declaration under penalty of perjury that the person is authorized to bind the organization in settlement; or

(C) a pending or potential proceeding in which the organization is or is to be a defendant (and not a cross-claimant or counter-claimant) in the Small Claims and Conciliation Branch of the Civil Division of the Superior Court of the District of Columbia, if the person at the time of appearing files a declaration under penalty of perjury that the person is authorized to bind the organization in settlement or trial.

(12) *Alternative Dispute Resolution*. A person who is not a D.C. Bar Member may provide legal services in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution ("ADR") proceeding, and may hold out as authorized to provide those services, if the person:

(A) is admitted in another jurisdiction or court;

(B) provides these services in no more than 5 ADR proceedings in the District of Columbia per calendar year (excluding *pro bono* proceedings); and

(C) does not otherwise practice law in the District of Columbia or hold out as authorized to do so except to the extent that the person's practice or holding out is authorized by one or more of Rules 49(c)(1)-(12).

(13) *Incidental and Temporary Practice*. A person who is not a D.C. Bar Member and who does not maintain an office or other systematic and continuous presence in the District of Columbia or use a District of Columbia address for the practice of law may provide legal services on a temporary basis, and may hold out as authorized to provide those services, if the services:

(A) are in or reasonably related to a pending or potential proceeding before a court or other tribunal in another jurisdiction in which the person is admitted or reasonably expects to be authorized by law or order to appear; or

(B) arise out of or are reasonably related to the person's practice in a jurisdiction in which the person is admitted.

(d) THE COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW.

(1) *Membership*. The court will appoint at least 6, but not more than 12, members of the D.C. Bar and one resident of the District of Columbia who is not a D.C. Bar Member to a standing committee known as the Committee on Unauthorized Practice of Law. The court must designate the Chair and Vice Chair.

(2) *Member's Term of Service*.

(A) *In General*. The court will appoint members for terms of 3 years.

(B) *Vacancy Before Term Expires*. In case of vacancy caused by death, resignation or otherwise, the court must appoint a successor to serve the unexpired term of the predecessor member.

(C) *Holdover*. After a member's term has expired, the member may continue to serve until the court appoints a successor or reappoints the member. If a member holds over after expiration of a term and is reappointed, the holdover period is part of that member's new term. A successor will serve a full 3-year term from the date of appointment without reference to any holdover.

(D) *Term Limit*. A member cannot serve for more than 2 consecutive, full 3-year terms unless the court makes a special exception.

(3) *Power to Adopt Rules and Regulations.* Subject to the approval of the court, the Committee may adopt rules and regulations that it deems necessary to carry out the provisions of Rule 49.

(4) *Subpoena Power and Process*. When conducting investigations and hearings, the Committee may authorize any member to subpoena, subject to Superior Court Rule of Civil Procedure 45, the respondent, witnesses, and documents.

(5) *Capacity to Appear*. The Committee may appear in its own name in legal proceedings addressing issues relating to the performance of its functions and compliance with Rule 49.

(6) *Compensation and Expenses*. The court may approve compensation and necessary expenses for the Committee members.

(7) *Additional Staff*. A designee of the Director of the Committee on Admissions will provide staff support to the Committee.

(8) *Duties*.

(A) *In General*. The Committee will investigate matters of alleged unauthorized practice of law and alleged violations of court rules governing the unauthorized practice of law, and if warranted, the Committee may take any action that is provided in these rules.

(B) *Law Student Practice*. In addition to the duties described in Rule 49, the Committee must oversee the participation of law students permitted to practice under Rule 48.

(9) *Meetings*. The Chair must call at least 8 meetings each year. The Committee must hold a special meeting if a majority of its members request it by notifying the Executive Secretary.

(A) *Chair or Vice Chair Presides*. The Chair or, in the Chair's absence, the Vice-Chair will preside at all meetings of the Committee.

(B) *Confidentiality*. Any matter under investigation by the Committee must remain confidential until resolution of the matter under Rule 49(d)(12)(B), (C), or (D), except that formal hearings under Rule 49(d)(11) will be open to the public. To ensure this confidentiality, the Committee must meet in executive session.

(C) *Notice of Absence*. Members who are unable to attend a meeting must notify the Chair or the Executive Secretary at least 2 days in advance of the meeting.

(D) *Order of Business*. The Chair will determine the order of business.

(E) *Quorum*. A quorum consists of 4 members, and all decisions must be made by a majority of those members present and voting.

(F) *Telephone or Electronic Vote*. In appropriate circumstances, as may be determined by the Chair, a telephone or electronic vote of a majority of members polled, numbering no less than 4 Committee members concurring in a decision, constitutes a Committee decision. Any Committee decision between meetings must be recorded in the minutes of the next Committee meeting.

(G) *Minutes*. The Executive Secretary will direct preparation of minutes for all Committee meetings and will furnish copies of the minutes to all members of the Committee and to the Chief Judge of this court or a judge designated by the Chief Judge.

(10) *Investigation*.

(A) *Assignment*. When a complaint is filed with the Committee or the Committee decides to investigate on its own volition, the Chair will assign the matter to a Committee member for preliminary investigation.

(B) *Conduct and Content of Investigation*. The investigation must consist of an analysis of the complaint, a survey of the applicable law, and, if appropriate, discussions with witnesses and the respondent. It will not be deemed a breach of the confidentiality required of an assigned matter for the Committee or one of its members to reveal facts and identities during the investigation of the matter.

(C) *Report*. At the next regular meeting of the Committee, the investigating member will provide a report for the purpose of determining what action, if any, should be taken by the Committee. Complaints must be investigated and reported on within 6 weeks. The Executive Secretary must notify the Chair about any delays in the investigation of and reporting on complaints.

(11) *Formal Hearings*. The Committee may take sworn testimony of witnesses and the respondent in formal hearings open to the public.

(A) *Written Notice to Respondent*. Before conducting a formal hearing, the Committee must give the respondent written notice informing the respondent of the nature of the conduct which the Committee believes may constitute the unauthorized practice of law. The notice must be accompanied by a copy of Rule 49. The notice may be served by:

(i) delivering it in person;

(ii) mailing it by first-class mail, postage prepaid, to the respondent's last known business or residence address;

(iii) delivering it to a commercial carrier for delivery to the respondent's last known business or residence address; or

(iv) other means such as e-mail or facsimile, reasonably calculated to reach the respondent, including any method described in Superior Court Rule of Civil Procedure 4.

(B) *Certificate of Service*. The Committee or its designee must prepare a certificate of service stating how the respondent was served.

(C) *Time to Respond*. The respondent must be given 30 days to provide a written response to the notice.

(D) *Appointing Attorneys*. The Chair (or the Vice Chair if the Chair is to be appointed) may appoint one or more attorney members of the Committee or outside counsel to present, at the formal hearing, evidence of conduct which may constitute the unauthorized practice of law. If a Committee member is appointed, the member may not participate further in the Committee's consideration of actions to dispose of the matter under Rule 49(d)(12), but may participate in any proceedings under Rule 49(e).

(E) *Conduct of Hearing*. The respondent may be accompanied by counsel at the hearing. Formal rules of evidence do not apply. The respondent may present documentary evidence, testify, present testimonial evidence from witnesses, and cross-examine witnesses, all subject to any rules and regulations adopted by the Committee and any reasonable limitations that are imposed by the Committee.

(F) *Findings of Fact and Conclusions of Law*. Following a formal hearing, the Committee may prepare written findings of fact and conclusions of law in support of its final disposition of the matter under Rule 49(d)(12).

(12) *Actions by the Committee*. The Committee may dispose of any matter pending before it by any of the following methods:

(A) If no evidence of unauthorized practice is found, the matter must be closed and the complainant notified.

(B) If the respondent agrees to cease and desist from actions that may constitute the unauthorized practice of law, the matter may be closed by formal agreement, with notification of the action given to the complainant. A formal agreement may require restitution to the clients of fees obtained by the respondent, payment to the D.C. Bar, or another remedy that the Committee considers appropriate. The Committee may file a formal agreement with the court with a proposed consent order memorializing the agreement's terms. A proposed consent order is effective when signed by a judge of the District of Columbia designated by the Chief Judge of this court.

(C) If, following a formal hearing under Rule 49(d)(11), the Committee finds by a preponderance of the evidence a violation of this rule or of an injunction or consent order issued pursuant to proceedings under this rule, then the Committee may initiate proceedings under Rule 49(e).

(D) The Committee may also refer cases to the Office of the United States Attorney or the Attorney General for the District of Columbia for investigation and possible prosecution or to other appropriate authorities.

(13) *Closed Files*. When the Committee closes a file, the file must be retained in the records of this court.

(14) *Opinions*. On the request of a person or organization or when the Committee believes that an opinion will aid the public's understanding of Rule 49, the Committee may by approval of a majority of its members present in quorum provide opinions as to what constitutes the unauthorized practice of law.

(A) *Publication*. The Committee's opinions must be published in the same manner as opinions rendered under the District of Columbia Rules of Professional Conduct.

(B) *Reliance on Opinion*. Conduct of a person, which was undertaken in good faith, in conformity with, and in reliance on the Committee's written interpretation or opinion requested by that person, constitutes a prima facie showing of compliance with Rule 49 in any investigation or proceeding before the Committee or this court.

(e) PROCEEDINGS BEFORE THE COURT.

(1) *Contempt*. Violations of Rule 49, or of any injunction or consent order issued pursuant to proceedings under Rule 49, are punishable by this court as contempt.

(2) *Injunction and Equitable Relief*. The court may issue a permanent injunction to restrain violations of Rule 49, together with ancillary equitable remedies to afford complete relief, including but not limited to equitable monetary relief in the form of disgorgement, restitution, or reimbursement of those harmed by the conduct.

(3) *Original Proceeding*. The Committee may initiate an original proceeding before this court for violation of Rule 49, or for violation of an injunction or consent order issued pursuant to proceedings under Rule 49.

(A) *By Petition*. The proceeding must be initiated by a petition served on the respondent or his designated counsel.

(B) *Special Counsel*. The court may, on motion of the Committee or on its own initiative, appoint a special counsel to represent the Committee and to present the Committee's proof and argument in the proceeding.

(C) *Conduct of Proceedings*. An original proceeding must be conducted before a judge of the District of Columbia designated by the Chief Judge of this court under the D.C. Code, and is governed by the Superior Court Rules of Civil Procedure.

(D) *Notice of Appeal*. Decisions of the designated judge are final and effective determinations which are subject to review in the normal course, by the filing of a notice of appeal by any party with the Clerk of the Court of Appeals within 30 days from the entry of the judgment by the designated judge.

COMMENTARY

The following Commentary provides guidance for interpreting and complying with Rule 49, but in proceedings before the court or the Committee on Unauthorized Practice of Law, the text of Rule 49 will govern.

Commentary to Rule 49(a):

Rule 49 is applied first by determining whether the conduct in question falls within the definitions of practicing law or holding out in the District of Columbia. If the conduct falls within those definitions, then the conduct by a person who is not a D.C. Bar Member is a violation of Rule 49, unless one or more of Rules 49(c)(1)-(13) authorizes the conduct. (Notwithstanding the prohibitions of Rule 49, a person licensed to practice as a Special Legal Consultant may render legal services in the District of Columbia, and may hold as authorized to do so, to the extent permitted by, and subject to the conditions in, Rule 46.)

While one has a right to represent oneself, one has no right to represent or advise another as an attorney. Authority to provide legal services to others is a privilege granted only to those who have the education, competence, and fitness to practice law. When a person is formally recognized to possess those qualifications by membership in the District of Columbia Bar, one is authorized to practice law.

Rule 49 prohibits both the implicit representation of authority or competence by engaging in the practice of law and the express holding out of oneself as authorized or qualified to practice law in the District of Columbia, unless a person is a D.C. Bar Member or otherwise authorized to practice law.

The rule against unauthorized practice of law has four general purposes:

(1) to protect members of the public from persons who are not qualified by education, competence, and fitness to provide professional legal advice or other legal services;

(2) to ensure that those who practice law in the District of Columbia or hold out as authorized to do so are subject to the disciplinary system of the District of Columbia Bar;

(3) to maintain the efficacy and integrity of the administration of justice and the system of regulation of practicing attorneys; and

(4) to ensure that the activities of the District of Columbia Bar are appropriately supported financially by those exercising the privilege of law practice in the District of Columbia.

Education, competence, and fitness to practice law are safeguarded by the examination and character screening requirements of the admissions process, and by the disciplinary system. The District of Columbia Bar further protects the interests of members of the public by maintaining a clients' security fund through membership dues.

Commentary to Rule 49(b)(2):

The definition of "practice law" in Rule 49(b)(2) is designed to focus on the two essential elements of the practice of law: (1) the provision of legal services and (2) a client relationship of trust or reliance. A person who provides legal services to another within a client relationship of trust or reliance implicitly represents that the person is authorized and competent to provide them—just as one who provides any services requiring special skill gives an implied warranty that they are provided in a good and workmanlike manner. *See, e.g., Ehrenhaft v. Malcolm Price, Inc.*, 483 A.2d 1192, 1200 (D.C. 1984); *Carey v. Crane Serv. Co.*, 457 A.2d 1102, 1107 (D.C. 1983).

Recognizing that the definition of "practice law" may not anticipate every relevant circumstance, the Court has provided three other tools to assist in defining the phrase: (1) an enumerated list of the most common activities that are rebuttably presumed to be the practice of law; (2) this commentary; and (3) where further questions of interpretation may arise, opinions of the Committee on Unauthorized Practice of Law, as provided in Rule 49(d)(14).

The definition of "practice law," the list of activities, this commentary, and opinions of the Committee on Unauthorized Practice of Law are to be considered and applied in light of the purposes of Rule 49, as set forth in the commentary to Rule 49(a).

The presumption that a person engaged in an activity enumerated in Rule 49(b) is practicing law may be rebutted by showing that the activity does not involve a client relationship of trust or reliance, that the person has made no explicit or implicit representation of authority or competence to practice law, or that neither condition is present.

While Rule 49 is meant to embrace every client relationship in which legal services are rendered, or one holds oneself out as authorized or competent to provide legal services, Rule 49 is not intended to cover conduct that lacks the essential features of an attorney-client relationship.

For example, a law professor instructing a class in the application of law to a particular, real situation is not engaged in the practice of law because the professor is not undertaking to provide advice or services for one or more clients as to their legal interests. An experienced industrial relations supervisor is not engaged in the practice of law when advising the person's employer what the firm must do to comply with state or federal labor laws, because the employer does not reasonably expect it is receiving a professional legal opinion. Law clerks, paralegals and summer associates are not practicing law if they do not advise clients or otherwise hold themselves out to the public as having authority or competence to practice law. Tax accountants, real estate agents, title company personnel, financial advisors, pension consultants, claims adjusters, social workers, and the like who do not indicate they are providing legal services based on education, competence, and authority to practice law, are not engaged in the practice of law, because their relationship with the customer is not based on the reasonable expectation that learned and authorized professional legal services are being given. Nor is it the practice of law under Rule 49 for a person to draft an agreement or resolve a controversy in a business context, where no reasonable expectation exists that the person is acting as a qualified or authorized attorney. Consistent with the holding of *Merrick v. American Securities & Trust Co.*, Rule 49 recognizes that one is not presumed to be practicing law when preparing a routine legal document incidental to a regular course of business as a non-attorney. *See* 107 F.2d 271, 274 (D.C. Cir. 1939) (drawing a distinction between "drafting legal papers *as a business* and drafting legal papers *pertinent to other business* which the [organization] was authorized to carry on") (emphasis added).

Rule 49 is not intended to forbid a person from acting as a mediator, arbitrator, or other alternative dispute resolution provider. This intent is expressed in the first sentence of the definition of "practice law," which requires the presence of two essential factors: The provision of legal services and a client relationship of trust or reliance. Mediators and arbitrators ordinarily do not form a client relationship of trust or reliance, and it is common for providers of mediation and arbitration services to advise participants that they are not providing the services of legal counsel.

Rule 49 is not meant to preclude persons who are not D.C. Bar Members from lobbying legislative or executive branch officials or agencies—including through preparing or expressing legal opinions, written or oral advocacy, preparation of position papers, or strategic advice—so long as the activities are intended to influence legislative lawmaking functions, as opposed to investigative, enforcement, or adjudicative functions. Permissible lobbying activities are not provided based on a reasonable expectation that learned and authorized professional legal services are being given in an attorney-client relationship. Some activities that have a relationship with legislative actions may constitute the practice of law. For example, advising a client about how testimony before Congress might affect pending or prospective criminal or civil litigation may constitute the practice of law. *See* D.C. UPL Comm. Op. 19-07.

Neither is Rule 49 intended to forbid a person from counseling or representing another person without compensation in proceedings or before bodies that are purely internal to an organization and that do not result in decisions directly appealable to a court, such as disciplinary or similar proceedings internal to a university, labor union, fraternity or sorority, religious organization, club, or membership organization.

Regarding discovery service companies and document reviewers, terms like "document review" and "the discovery process" encompass numerous discrete tasks, some of which involve the application of legal judgment, and some of which do not. These companies and persons do not violate Rule 49 when performing work that does not involve the application of legal knowledge, training, or judgment, and when the person is not held out or billed as an attorney. *See* D.C. UPL Comm. Op. 21-12. When a person is hired and billed as an attorney, the person is generally engaged in the practice of law, and is certainly being held out as authorized to practice law. Clients would reasonably assume that a person held out as a "contract lawyer" or "contract attorney," for example, performs functions that are different in degree, if not in kind, from those performed by paralegals or law clerks, and the cost of services performed by contract attorneys reflects the legal training and judgment that they bring to the work they perform. In addition, if a contract attorney is supervised not as a paralegal or law clerk but as a subordinate attorney would be supervised, the contract attorney is engaged in the practice of law. D.C. UPL Comm. Op. 16-05.

While payment of a fee is often a strong indication of an attorney-client relationship, it is neither essential nor dispositive.

Ordinarily, a person who provides or offers to provide legal services to clients in the District of Columbia implicitly represents to the consumer that the person has the education, competence, and authority to practice law in the District of Columbia. It is not sufficient for a person who is not a D.C. Bar Member merely to give notice that the person is not an attorney while engaging in conduct that is likely to mislead others into believing that the person is authorized to practice law. Where consumers continue to seek services after this notice, the provider must take special care to

assure that they understand that the person they are consulting does not have the authority and competence to provide legal services in the District of Columbia. *See In re Banks*, 561 A.2d 158 (D.C. 1987).

Rule 49 also confines the practice of law to provision of legal services for another. People who represent themselves are not required to be admitted to the District of Columbia Bar.

Regarding "furnishing" attorneys, individual attorneys and non-attorneys commonly refer or recommend attorneys in a wide variety of circumstances without violating Rule 49. The term 'furnishing' within the meaning of Rule 49(b)(2)(F) involves more than simply recommending a particular attorney. Rule 49(b)(2)(F) is generally addressed to the business of providing attorneys, or systematically referring attorneys, in response to requests from non-attorney members of the public for representation in a specific, pending legal matters. This activity is included in the definition of the 'practice of law,' because, properly made, attorney referrals generally involve the exercise of the trained judgment of an attorney. *See* D.C. UPL Comm. Op. 6-99. The basic concern behind Rule 49(b)(2)(F) is that a non-attorney member of the public seeking an attorney for a particular matter will rely inappropriately on the judgment of non-attorneys who are regularly engaged in referring attorneys for similar matters.

Temporary attorney placement services lawfully may provide names of attorneys to law firms or legal departments, provided, however, that an attorney at the law firm or law department, possessing an attorney-client relationship with the client, selects the temporary attorney. In these circumstances, temporary attorney services do not exercise, or purport to exercise, professional legal judgment, as they leave the selection of candidates to the judgment of the attorneys responsible for the matter or matters requiring temporary professional assistance. *See* D.C. UPL Comm. Op. 6-99. Furthermore, discovery services companies do not run afoul of Rule 49 by handling the administrative aspects of hiring and supervising a document review attorney. This could include interviewing individuals to create a roster of attorneys available to assist with document review projects, providing the attorney's working space and equipment, ensuring that the person works a regular day and works at an acceptable pace, providing salary and benefits, and similar supervisory activities that do not require the application of professional legal judgment. *See* D.C. UPL Comm. Op. 21-12.

As another example, advocacy organizations such as the American Civil Liberties Union and the National Association for the Advancement of Colored People would not engage in unauthorized practice of law by systematically referring attorneys to potential clients, *provided a D.C. Bar Member within the organization was responsible for the referral judgment*. *See* D.C. UPL Comm. Op. 4-98 (discussing the American Civil Liberties Union and the National Association for the Advancement of Colored People). In that circumstance, only qualified attorneys subject to the regulatory and disciplinary system of the District of Columbia will be making professional judgments on the appropriate attorneys to which specific clients should be referred for representation in specific matters.

A non-lawyer's mere request for a continuance from a government agency, court, or other tribunal on behalf of another for no fee does not, in and of itself, constitute law practice. *See, e.g.*, Superior Court Rule of Civil Procedure 101(a); Superior Court Rule of Procedure for the Landlord and Tenant Branch 9(a); Superior Court Rule of Procedure for the Small Claims and Conciliation

Branch 9(a).

Commentary to Rule 49(b)(3):

Rule 49(b)(3) clarifies the geographic extent of Rule 49.

Rule 49 is intended to regulate all practice of law within the boundaries of the District of Columbia. The fact that an attorney is associated with a law firm that maintains an office in the District of Columbia does not, of itself, establish that that attorney is maintaining an office in the District of Columbia or holding out as authorized to practice in the District of Columbia.

The practice of law subject to Rule 49 is not confined to matters subject to District of Columbia law. Rule 49 applies to the practice of all substantive areas of the law and requires admission to the District of Columbia Bar where the practice is carried on in the District of Columbia and is not authorized by any of Rules 49(c)(1)-(13). It applies to legal services in the District of Columbia even if those legal services pertain to a matter involving federal law, foreign law, or the law of a state or territory.

A person is engaged in the practice of law in the District of Columbia when the person provides legal services from an office or location within the District. That is true if the person practices in a residence or in a commercial building; if all of the person's clients are located in other jurisdictions; if the person provides legal services only by telephone, letter, e-mail, or other means; if the person provides legal services only concerning the laws of jurisdictions other than the District of Columbia; or if the person informs the client that the person is not authorized to practice law in the District of Columbia and does not provide advice about District of Columbia law. An attorney in the District of Columbia who advises clients or otherwise provides legal services in another jurisdiction also may be subject to the rules of that jurisdiction concerning unauthorized practice of law.

The prohibition on unauthorized practice applies only if an attorney is physically present in the District of Columbia at least once during the course of a matter. Even if a matter involves a client, and a dispute or transaction, in the District, the prohibition on unauthorized practice does not apply if an attorney located outside the District advises a client in-person only when the client visits the attorney in the attorney's office, or if the attorney advises the client only by telephone, regular mail, or e-mail. However, if an attorney is physically present in the District even once during the course of a matter, the attorney may be engaged in the District of Columbia in the practice of law with respect to the entire matter, even if the attorney otherwise operates only from a location outside the District.

The definition of "in the District of Columbia" is intended to cover the practice of law within the District under the supervision of, or in association with, a D.C. Bar Member. Persons who provide legal services to one or more clients from a location in the District of Columbia, with or without bar memberships elsewhere, are practicing law in the District and are in violation of Rule 49, unless their practice is authorized by one or more of Rules 49(c)(1)-(13).

For a discussion of telecommuting/teleworking/working from home, see the Commentary to Rule 49(c)(13) ("Incidental and Temporary Practice").

For a discussion of the geographic reach of Rule 49 as applied to discovery services companies, *see* D.C. UPL Comm. Op. 21-12.

Commentary to Rule 49(b)(4):

Persons who are not D.C. Bar Members must avoid giving the impression that they are qualified legal professionals subject to the ethical standards and discipline of the District of Columbia Bar.

The listing of terms that normally indicate one is holding oneself out as authorized or qualified to practice law is not intended to be exhaustive. Experience has shown that the listed terms are often used to misleadingly represent that an individual is authorized to provide legal services. The definition of "hold out" is intended to cover any conduct that gives the impression that one is qualified or authorized to practice. *See In re Banks*, 561 A.2d 158 (D.C. 1987). The terms "associate" or "counsel," when used in a legal context, convey to members of the public that an individual is authorized to practice law. *See* D.C. UPL Comm. Op. 22-17.

To avoid improper holding out, lobbyists practicing with a District of Columbia law firm who are not D.C. Bar Members must make clear that they are not and that their practice is limited to lobbying matters that do not constitute the practice of law. *See* D.C. UPL Comm. Op. 19-07.

A non-attorney who holds himself or herself out as the functional equivalent of an attorney may violate Rule 49 and may be liable under the District of Columbia's consumer-protection statutes even if the recipient of the services knows that the services are not being provided by a D.C. Bar Member or other attorney. *See Banks v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 634 A.2d 433 (D.C. 1993).

Although Rule 49's prohibition on unauthorized practice is limited to conduct within the District of Columbia, a person located outside of the District of Columbia may still violate Rule 49 by holding out as authorized to practice law in the District of Columbia, such as by associating himself or herself with an address or post office box in the District of Columbia in connection with law-related communications.

Commentary to Rule 49(b)(9):

Rule 49 employs the supervision standard of Rule 5.1 of the Rules of Professional Conduct. That Rule requires the supervising attorney to make reasonable efforts to ensure conformity with, among other Rules, Rule 1.1 requiring competent representation and Rule 1.3 requiring zealous and diligent representation within the bounds of the law. Whether reasonable supervision requires the supervising attorney to attend personally with the supervised attorney a trial, hearing, or meeting depends on the circumstances. That is true in both litigation and non-litigation matters. The supervising attorney should consider all factors relevant to the appropriate degree and manner of supervision, including the experience and skill of the supervised attorney and the nature of the matter. Thus, in deciding whether to be present for a trial, hearing, or conference before a court or other tribunal, the supervising attorney should consider, among other factors, the experience and skill of the supervised attorney, the nature of the case, and the type of proceeding. For example, whether the supervising attorney should be present at a jury trial depends in part on the nature and extent of the supervised attorney's prior jury trial experience, and in-person supervision may not

be necessary if the supervised attorney has extensive experience trying similar cases in other jurisdictions where the person is licensed or has been admitted *pro hac vice*. In some situations, a responsible supervisor ought to be present in court with the supervised attorney, but in others, the supervisor may reasonably decide that the supervisor does not need to be present.

Whether or not the supervising attorney is physically present when the supervised attorney provides legal services, the supervising attorney remains accountable under Rule 5.1(b) if the supervising attorney fails to make reasonable efforts to ensure that the other attorney conforms to the Rules of Professional Conduct.

Commentary to Rule 49(c)(1):

Departments, agencies, and courts of the federal government are entitled to advice and representation from their employees as part of their official duties. This advice and representation includes both internal consultation and external representation in contact with the public and the courts.

Commentary to Rule 49(c)(2):

Rule 49(c)(2) provides a limited exception to the requirement for admission to the District of Columbia Bar for persons who practice before federal and District of Columbia agencies in certain circumstances.

The United States Supreme Court has held that states may not limit practice before a federal government agency, or conduct incidental to that practice, where the agency maintains a registry of practitioners and regulates standards of practice with sanctions of suspension or disbarment. *Sperry v. Florida*, 373 U.S. 379 (1963).

As the seat of the national government, the District of Columbia is naturally the place where people locate to provide representation of persons or entities petitioning federal departments or agencies for relief. Inasmuch as this activity would often constitute the practice of law, the Supremacy Clause of the United States Constitution, case law, and comity between the District and federal governments counsel deference to federal departments and agencies that determine to allow persons not admitted to the Bar to practice before them. At the same time, experience under this rule has shown that some persons have abused the deference set forth in the original rule by engaging in misleading holding out or practicing law in proceedings other than those of the authorizing federal fora.

With respect to persons who hold out and purport to provide legal representation before federal fora from locations outside the District of Columbia, Rule 49 does not apply because the activity, even if the practice of law, is not carried on "in the District of Columbia." See Rule 49(b)(3) and commentary thereto.

Rule 49(c)(2) is designed to permit persons to practice before a government department or agency without becoming members of the Bar where the practice is authorized by law or agency rule, where the agency has a rule to regulate the practice, and where the public is adequately informed of the limited nature of the person's authority to practice.

In many instances, persons seeking representation involving jurisdiction of federal departments and agencies also have rights to plead their claims before the courts. Advising persons whether they have rights to pursue their claims beyond federal agencies into the courts, or representing entities in challenges to or review of federal agency action in federal courts, would, without more, not require that the advisor be a D.C. Bar Member, because this advice is reasonably ancillary to representation before the agency and is subject to the jurisdiction of the federal courts. *See* Rule 49(c)(3). Rule 49(c)(2) does not, however, otherwise authorize advice to or representation of persons in the courts.

Rule 49(c)(2) also authorizes practice before certain District of Columbia fora. This provision was added in recognition that some of the foregoing considerations support allowing persons not admitted as attorneys to represent members of the public before some District of Columbia fora. In addition, some client matters may warrant a practitioner taking simultaneous or coordinated actions in federal and District of Columbia fora.

To be clear, neither Rule 49(c)(2) nor anything else in Rule 49 authorizes persons who are not D.C. Bar Members to provide legal services to another person merely because those legal services concern federal law. *See Kennedy v. Bar Ass'n of Montgomery County, Inc.*, 561 A.2d 200, 208–09 (Md. Ct. App. 1989) ("[A]dvising clients by applying legal principles to the client's problem is practicing law. . . . This is so whether the legal principles [applied are] established by the law of Montgomery County, the State of Maryland, some other state of the United States, the United States of America, or a foreign nation."); *Bluestein v. State Bar*, 13 Cal. 3d 162, 173–74 (1974) (holding that "law," as used in the California statute barring unauthorized practice, includes foreign law); *In re Roel*, 144 N.E.2d 24, 26 (N.Y. 1957) ("Whether a person gives advice as to New York law, Federal law, the law of a sister State, or the law of a foreign country, he is giving legal advice."). Rule 49 includes no "federal law" exception to its general prohibition on the practice of law by persons who are not D.C. Bar Members.

Persons could satisfy the notice requirement of Rule 49(c)(2)(B) with prominent written statements that, for example, the person is "not admitted to the D.C. Bar; practice limited to matters before the U.S. Patent & Trademark Office" or "Admitted only in Virginia; practice limited to matters before federal courts, federal agencies, and District of Columbia agencies." *See* D.C. UPL Comm. Op. 5-98.

Commentary to Rule 49(c)(3):

Practice before the courts of the United States is a matter committed to the jurisdiction and discretion of those entities. If a practitioner has an office in the District of Columbia and is admitted to practice before a federal court in the District of Columbia but is not a D.C. Bar Member, the practitioner may use the District of Columbia office to engage in the practice of law before that federal court, but only if the practitioner provides clear notice in all business documents, including advertisements and social media, that the practitioner is not a D.C. Bar Member and that the practice is limited to matters before that federal court (or to other matters authorized by Rule 49(c)(2), (c)(3), (c)(6), (c)(9), (c)(10), or (c)(12).). Rule 49(c)(3) applies only if a person's entire practice in the District of Columbia is authorized by one or more of Rules 49(c)(2), (c)(3), (c)(6), (c)(9), (c)(10), or (c)(12); if any part of the person's law practice is not so authorized, Rule 49 requires a practitioner with an office in the District of Columbia to be a D.C. Bar Member. The

rules of federal courts in the District of Columbia may or may not authorize admission, on a regular or *pro hac vice* basis, of an attorney with an office in the District of Columbia if the attorney is not a D.C. Bar Member.

Again, to be clear, neither Rule 49(c)(3) nor anything else in Rule 49 authorizes persons who are not D.C. Bar Members to provide legal services to another merely because those legal services concern federal law.

Persons could satisfy the notice requirement of Rule 49(c)(3) with prominent written statements that, for example, the person is "not admitted to the D.C. Bar; practice limited to U.S. courts" or "Admitted only in Maryland; practice limited to matters before federal courts, federal agencies, and District of Columbia agencies." *See* D.C. UPL Comm. Op. 5-98.

Commentary to Rule 49(c)(4):

Permission for District of Columbia employees to practice in the District is more limited than permission for United States employees. Departments, agencies, and courts of the District of Columbia are entitled to legal services from their employees as part of their official duties under the circumstances set forth in Rule 49(c)(4). These legal services include both internal consultation and external representation in contact with the public and the courts.

Commentary to Rule 49(c)(5):

In keeping with federal labor policy, many disputes arising under a collective bargaining agreement between a labor organization or worker, on the one hand, and an employer, on the other hand, are resolved through labor arbitration. While attorneys are involved in some matters of this nature, it is common for the parties to be represented by non-attorneys (whether a union representative or a labor relations officer of the employer). At the early stages of the grievance-resolution process, which can include informal hearings that are necessary steps before arbitration, the use of attorneys is even more rare. Some states have addressed this issue through specific rules which expressly permit non-attorney representation in labor arbitration. *See* Cal. Code of Civil Procedure § 1282.4(h); Washington Rules of Court, General Rule 24(b)(5). The Supreme Court has written:

> The right of [union] members to consult with each other in a fraternal organization necessarily includes the right to select a spokesman from their number who could be expected to give the wisest counsel. . . . [A State] undoubtedly has broad powers to regulate the practice of law within its borders, but we . . . recognize that in regulating the practice of law a State cannot ignore the rights of individuals secured by the Constitution. … [F]or them to associate together to help one another to preserve and enforce rights granted them under federal laws cannot be condemned as a threat to legal ethics.

Bhd. of RR Trainmen v. Va. ex rel. Va. State Bar, 377 U.S. 1, 6-7 (1964); *see also UMWA v. Ill. State Bar Ass'n*, 389 U.S. 217, 222 (1967) ("That the States have broad power to regulate the practice of law is . . . beyond question. . . . But it is equally apparent that broad rules framed to protect the public and to preserve respect for the administration of justice can in their actual operation significantly impair the value of associational freedoms.").

Rule 49(c)(5) recognizes the federal policy to facilitate the inexpensive and informal protection of workers' and employers' rights protected by federal labor law, and it recognizes the practical reality that non-attorneys for decades have played important representational functions in the context of negotiations, grievances, and arbitrations connected to collective bargaining agreements.

Commentary to Rule 49(c)(6):

Rule 49(c)(6) addresses in-house attorneys and others who are employed to provide legal services to their employer or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. The provision of legal services by in-house counsel or advisors generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the employee's qualifications and the quality of the employee's work. A person practicing under this exception may hold out as authorized to provide these services by, for example, using titles such as "General Counsel" or "Corporate Counsel" on business cards and website profiles in a manner that makes clear that the person is affiliated with the organization and providing legal services solely to that organization.

There may be other instances of persons employed to provide legal services to their employer who would fall within Rule 49(c)(6). For example, an internal personnel manager advising her employer on the requirements of equal employment opportunity law, or a purchasing manager who drafts contracts, fall within Rule 49(c)(6), as they do not give the employer a reasonable expectation that it is being served by a D.C. Bar Member. Similarly, an employee on the staff of a trade association who drafts leases or other documents would be covered by Rule 49(c)(6) if, in fact, the employee does not give the employer reason to believe that the employee is a D.C. Bar Member.

Rule 49(c)(6) provides a limited exception arising from the position of the employee, the confinement of the employee's professional services to activities internal to the employer, and the absence of conduct creating a reasonable expectation that the employer is receiving the services of a D.C. Bar Member. However, anyone practicing law under this exception is subject to the jurisdiction of the courts of the District of Columbia and must abide by the D.C. Rules of Professional Conduct.

Rule 49(c)(6) does not authorize employees to provide legal services to or otherwise represent other individual employees of their employer or its affiliates.

Commentary to Rule 49(c)(7):

The District of Columbia courts are open to attorneys from other jurisdictions. As the Court of Appeals has observed, however:

> [A]ppearance *pro hac vice* is meant to be an exception to the general prohibition against practicing law in the District without benefit of membership in the District of Columbia Bar. As an exception, it is equally clear[] that it is designed as a privilege for an out-of-state attorney who may, from time to time, be involved in a particular case that requires

appearance before a court in the District.

Brookens v. Comm. on Unauthorized Practice of Law, 538 A.2d 1120, 1124 (D.C. 1988).

The fact that an attorney is associated with a law firm that maintains an office in the District of Columbia does not, of itself, establish that that attorney is maintaining an office in the District of Columbia.

The *pro hac vice* exception has occasionally been abused to allow persons who regularly operate from a location within the District of Columbia or its surrounding jurisdictions to engage regularly in litigation practice before the District of Columbia courts. Accordingly, a person generally may not apply for admission *pro hac vice* in more than five cases pending in District of Columbia courts per calendar year.

The scope of services that are covered by Rule 49(c)(7) includes legal services that are rendered both "in" a court proceeding and also those that are "reasonably related" to the proceeding. The court "proceeding"—to which the legal services must be related—is defined broadly. Specifically, the court proceeding need not be "pending" when legal services are rendered for the services to be covered; services that are reasonably related to a "potential proceeding" in a D.C. court also qualify. Thus, for example, legal services provided to a respondent in an attorney-discipline proceeding may be within the scope of the *pro hac vice* exception because they are reasonably related to potential proceedings in the D.C. Court of Appeals. *See* D.C. UPL Comm. Op. 23-18. As another example, legal services provided to an applicant to the District of Columbia Bar in connection with a formal hearing before the Committee on Admissions or provided to a respondent in connection with a formal hearing before the Committee on the Unauthorized Practice of Law are within the scope of the *pro hac vice* exception if the requirements of Rule 49(c)(7) are met.

Commentary to Rule 49(c)(8):

Rule 49(c)(8) is designed to provide a one-time grace period within which attorneys admitted in other jurisdictions who wish to practice law in the District of Columbia may do so under the supervision of one or more D.C. Bar Members, while they promptly pursue admission to the District of Columbia Bar.

Regarding the notice requirement, persons could satisfy it with prominent written statements that, for example, the person is "not admitted to the D.C. Bar; practice supervised by D.C. Bar Members" or "Admitted only in Maryland; practice supervised by D.C. Bar Members." *See* D.C. UPL Comm. Op. 5-98. The term "admission pending" may not be used. That term is likely to be misleading because it implies that the grant of a pending application for admission to the D.C. Bar is a formality. Even if an individual meets some of the requirements for applying for admission to the D.C. Bar, admission to the D.C. Bar is not automatic. *See* D.C. UPL Comm. Op. 20-08. The term "application pending" may raise similar concerns, depending on context. *See id.*

A person practicing under Rule 49(c)(8) need not apply for admission *pro hac vice* to appear in the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. This represents a departure from a prior version of Rule 49(c)(8), and Opinion 18-06 of the Committee is no longer applicable.

Commentary to Rule 49(c)(9):

Rule 49(c)(9) is intended to increase access to justice in the District of Columbia for those unable to afford an attorney by providing an exception to the requirement of admission to the District of Columbia Bar for attorneys formerly admitted in the District of Columbia or currently or formerly admitted in other United States jurisdictions (or, for a period of not more than 365 days, law school graduates who have applied to take the bar examination described in Rule 46(c)(7)(A) or 46(d) in a United States jurisdiction) so that they may provide *pro bono* representation where the requirements of the exception are met. However, the exception in Rule 49(c)(9)(A) does not apply to persons who are employees of the Public Defender Service or a non-profit organization that provides *pro bono* legal services.

Regarding the notice requirement in Rule 49(c)(9)(C), persons could satisfy it with prominent written statements that, for example, the person is "not admitted to the D.C. Bar; practice supervised by D.C. Bar Members" or "Admitted only in Maryland; practice supervised by D.C. Bar Members." *See* D.C. UPL Comm. Op. 5-98.

Commentary to Rule 49(c)(10):

Rule 49(c)(10) is intended to give a rule-based authorization to the number of individual- and group-assistance programs, services, and projects that the courts of the District of Columbia have approved or in the future may approve.

Commentary to Rule 49(c)(11):

Landlord-tenant disputes and small claims matters may not, as a general matter, warrant the expense of hiring an attorney. Rule 49(c)(11) therefore creates an exception to the general prohibition on law practice by persons who are not D.C. Bar Members for the three situations referenced in Rule 49(c)(11).

Rule 49(c)(11) does not authorize a person who is not a D.C. Bar Member to appear in a representative capacity in an action that has been filed in the Landlord and Tenant Branch of the Civil Division of the Superior Court, except for the purpose of entering a consent judgment. Nor does it authorize a person who is not a D.C. Bar Member to appear on behalf of a plaintiff, cross-claimant, or counterclaimant in the Small Claims and Conciliation Branch of the Civil Division of the Superior Court, or to appear on behalf of any party if a case is certified to the Civil Actions Branch.

Commentary to Rule 49(c)(12):

Rule 49(c)(12) furthers the efficient and expeditious resolution of disputes outside the judicial process, to the extent consistent with the broader public interest. This provision gives clients who agree to resolve their disputes through mediation or arbitration or other dispute resolution proceedings in the District of Columbia the option to retain attorneys not admitted in the District of Columbia. This rule is intended to be analogous to the *pro hac vice* exception in Rule 49(c)(7).

Rule 49(c)(12) allows attorneys to represent clients in mediation, arbitration, or other

alternative dispute resolution proceedings that require more than incidental or temporary presence in the District. Separate from the authority granted by Rule 49(c)(12), an attorney may represent parties in mediation, arbitration, or other alternative dispute resolution proceedings under Rule 49(c)(13) if the attorney's presence in the District is incidental and temporary.

As explained in the Commentary to Rule 49(b)(2), attorneys who serve as arbitrators, mediators, or other kinds of neutrals are not engaged in the practice of law.

Commentary to Rule 49(c)(13):

There are occasions in which an attorney admitted in another jurisdiction may provide legal services on a temporary basis in the District of Columbia under circumstances that do not create an unreasonable risk to the interests of their clients, the public, or the courts. Rule 49(c)(13) authorizes law practice in two circumstances.

There is no single test to determine whether an attorney's services are provided on a "temporary" basis in the District, and may therefore be permissible under Rule 49(c)(13). Services may be "temporary" even though the attorney provides services in the District on a recurring basis, or for an extended period of time, as when the attorney is representing a client in a single lengthy negotiation or litigation. For example, an attorney who spends several weeks or even months in the District in connection with a case that does not involve the District and that is pending in a court outside the District may be only temporarily in the District for purposes of Rule 49(c)(13). If an attorney's principal place of business is in the District, the attorney is not practicing law in the District on a temporary basis.

Rule 49(c)(13) provides that an attorney rendering services in the District on a temporary basis does not violate Rule 49 when the attorney engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the attorney is admitted or in which the attorney reasonably expects to be admitted *pro hac vice*. Examples of permissible conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, an attorney admitted only in another jurisdiction may engage in conduct temporarily in the District in connection with pending litigation in another jurisdiction in which the attorney is or reasonably expects to be authorized to appear, including taking depositions in the District.

An attorney rendering services in the District on a temporary basis does not violate Rule 49 when the services arise out of or are reasonably related to the attorney's practice in a jurisdiction in which the attorney is admitted. Several factors may be relevant to whether the services provided in the District of Columbia arise out of or are reasonably related to an attorney's practice in a jurisdiction in which the lawyer is admitted. The attorney's client may have been previously represented by the attorney, or may be resident in or have substantial contacts with the jurisdiction in which the attorney is admitted. The matter, although involving other jurisdictions, may have a significant connection with the jurisdiction in which the attorney is admitted. In other cases, significant aspects of the attorney's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their attorney in assessing the relative merits of each. In addition, the services may draw on the attorney's

recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally uniform, foreign, or international law. Another relevant factor is whether the attorney not admitted to the District of Columbia Bar is the only attorney for a party, or whether the attorney is co-counsel or the attorney's role is limited to one aspect of a transaction with respect to which a D.C. Bar Member is lead counsel. For example, where a transaction concerns real estate located in the District of Columbia, an attorney based outside the District who comes to the city to provide legal services to a client located inside or outside the District relating only to the federal tax aspects of the transaction may qualify under Rule 49(c)(13). However, an attorney based outside the District who comes to the city to be primary counsel to a District-based client with respect to all aspects of the real estate transaction may not qualify under Rule 49(c)(13). Whether the attorney who is not admitted to the District of Columbia Bar and whose principal office is outside the District is associated with or supervised by a D.C. Bar Member is a relevant, but not controlling, factor in determining whether the attorney's practice in the District is authorized by Rule 49(c)(13).

Legal services provided in connection with a matter pending in a government agency, court, or other tribunal in the District of Columbia generally are not authorized by Rule 49(c)(13). Legal services provided in connection with a matter pending before a congressional committee often are.

Rule 49(c)(13) permits a person authorized to practice law in another country to practice law in the District on an incidental and temporary basis, subject to the specified conditions. Those conditions, including the requirements that a foreign attorney be authorized to practice law in a foreign country and not be disbarred or suspended in any jurisdiction, are consistent with the requirements in Rule 46(f) concerning special legal consultants that the foreign attorney be in good standing as an attorney or counselor at law (or the equivalent of either) in the country where the person is authorized to practice law.

A person who occasionally practices law from the person's residence in the District of Columbia, either by telecommuting or working from home, or who practices temporarily from a hotel or short-term rental accommodation while on vacation in the District of Columbia, does not violate Rule 49, provided the person: (1) maintains a law office in a jurisdiction where the attorney is admitted to practice; (2) avoids using a District of Columbia address in any business document or otherwise holding out as authorized to practice law in the District of Columbia; and (3) does not regularly conduct in-person meetings with clients or third parties in the District of Columbia.

A contract attorney who regularly takes short-term assignments in the District of Columbia is not engaged in temporary practice here, even if each assignment, considered in isolation, might constitute temporary practice. *See* D.C. UPL Comm. Op. 16-05. Regular work exceeds what Rule 49(c)(13) authorizes.

Commentary to Rule 49(d):

Rule 49(d) sets forth the mandate, powers, and procedures of the Committee on Unauthorized Practice of Law. The United States Court of Appeals for the District of Columbia Circuit has observed:

> The Committee members' work is functionally comparable to the work of

> judges. . . . They serve as an arm of the court and perform a function which traditionally belongs to the judiciary. . . . [T]he Committee acts as a surrogate for those who sit on the bench. Indeed, were it not for the Committee, judges themselves might be forced to engage in the sort of inquiries [authorized by Rule 49].

Simons v. Bellinger, 643 F.2d 774, 780-81 (D.C. Cir. 1980).

It is expected that most matters considered by the Committee will be resolved through informal proceedings.

Commentary to Rule 49(e):

The powers and procedures provided in Rule 49(d) and (e) are not the exclusive means for enforcing the provisions of this rule. Disciplinary Counsel may initiate an original proceeding before the Court of Appeals for contempt where it alleges that the respondent has violated Rule 49 by practicing law while disbarred. *In re Burton*, 614 A.2d 46 (D.C. 1992). Disciplinary Counsel may also rely on unauthorized law practice in opposing reinstatement of an attorney suspended from the District of Columbia Bar. *In re Stanton*, 532 A.2d 95 (D.C. 1987). The District of Columbia courts have subject matter jurisdiction to consider original complaints of unauthorized practice of law initiated by private parties and to issue relief if unauthorized practice is found. *J.H. Marshall & Assocs., Inc. v. Burleson*, 313 A.2d 587 (D.C. 1973).

Rule 50. Judicial Conference of the District of Columbia.

(a) Purpose. In accordance with D.C. Code § 11-744, there will be held biennially, at a time and place designated by the Chief Judge of this court, a conference of all the active judges of this court and the active judges of the Superior Court of the District of Columbia, for the purpose of considering the state of business of the courts and advising ways and means of improving the administration of justice within the District of Columbia. It will be the duty of each judge summoned to attend the conference and, unless excused by the Chief Judge of this court, to remain throughout the conference. The conference will be called the Judicial Conference of the District of Columbia.

(b) Composition. In addition to the active judges of this court and the active judges and magistrate judges of the Superior Court of the District of Columbia, invited participants of the conference who will have voting privileges consist of the following:

(1) The retired judges of this court and of the Superior Court.

(2) The Clerks of this court and of the Superior Court.

(3) The Executive Officer of the District of Columbia Courts.

(4) The United States Attorney for the District of Columbia.

(5) The Attorney General for the District of Columbia.

(6) The deans of local law schools (ABA approved).

(7) The President and President-Elect of the District of Columbia Bar.

(8) The Presidents and Presidents-Elect of the voluntary bar associations of the District of Columbia.

(9) Members of the Bar of the court and representatives of the District of Columbia administration of justice system in such numbers as will promote the purpose of this rule as defined in section (a). Selection of the members pursuant to this subsection will be subject to the approval of this court.

(10) The following officials will be invited annually as guests of the Conference:

(i) The Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and of the United States District Court for the District of Columbia.

(ii) The Clerks of the United States Court of Appeals for the District of Columbia Circuit and of the United States District Court for the District of Columbia.

(iii) The Circuit Executive of the District of Columbia Circuit.

(c) Pre-conference Arrangements. The Chief Judge of this court will appoint a Committee on Arrangements for the Conference consisting of at least one active judge of this court and one active judge of the Superior Court and one member of the Bar. The Committee must:

(1) Prepare and submit for the approval of the Board of Judges of this court a plan for the conference to include:

(i) Location.

(ii) Program of professional matters to be covered during the Conference.

(iii) Coordination of arrangements in instances where the Judicial Conference is to be held jointly with a Bar activity.

(2) Carry out such other tasks relative to the Conference as may be assigned by the Chief Judge of this court.

(d) Conference Procedures.

(1) The Chief Judge of this court will preside at the meetings of the Judicial Conference and the meetings will be conducted in accordance with Robert's Rules of Order.

(2) The Chief Judge of this court may appoint such committees as may be appropriate, including those committees authorized by the Conference or determined by the Chief Judge to be necessary to implement its actions, and may fill vacancies in or reconstitute such committees.

(3) The Clerk of this court will serve as Secretary to the Conference and must make and preserve an accurate record of its proceedings.

SCHEDULE OF FEES AND COSTS

(a)	Filing notice of appeal in trial court	$100
(b)	Filing application for allowance of appeal, small claims and criminal (less than $50 penalty).....	10
	If granted, docketing fee	40
(c)	Filing petition for review	100
(d)	For filing original applications or petitions	100
(e)	For each photocopy supplied by the Clerk, per page	.50
(f)	For a copy of each slip opinion of this Court	2
(g)	Filing application for interlocutory appeal	100
(h)	Preparing record for Supreme Court including certificate and seal	20
(i)	For affixing a certificate and seal to any document	5
(j)	For certificate of good standing (D.C. Form).....	5
(k)	For certificate of good standing (Out of State Form).....	10
(l)	For engraved certificate evidencing admission to the Bar	40