J. 12 Major Operating Divisions Case Management Plans

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District of Columbia Superior Court

CIVIL DIVISION

Small Claims and Conciliation Branch

Case Management Plan

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Purpose

All cases filed in the Civil Division, Small Claims and Conciliation Branch (Small Claims Branch) of the Superior Court of the District of Columbia are to be determined in a just, speedy and inexpensive manner in accordance with the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch. The purpose of this case management plan is to give parties a broad understanding of case management in the Small Claims Branch within the scope of the rules. It details the actions the Court takes to monitor and control the progress of a case, from initiation through final disposition, and to ensure prompt resolution consistent with the individual circumstances of the cases. Specifically, the case management plan provides court staff and the public with information about the procedures used to ensure efficient and effective case processing in the Small Claims Branch. This plan is not a substitute for the advice of a lawyer. The law can be very complicated, and it is not possible to address every situation in one document. Parties are strongly encouraged to talk to a lawyer to help protect their legal rights. The Superior Court Rules of Procedure for the Small Claims and Conciliation Branch can be accessed on the Courts' website for more information.

Performance Measures

In 2005, the District of Columbia Courts' policy making body, the Joint Committee on Judicial Administration, adopted a set of nationally recognized measures to assess and report on the Courts' performance of timely and efficient resolution of cases. Performance measures set benchmarks the D.C. Courts must achieve in order to deliver justice effectively and enhance accountability to the public.

Performance assessments allow the Court leadership to monitor operational efficiency and assess how well the Court is doing in achieving its goals. In order to assess the Courts' performance and monitor cases, the Age of Active Pending Caseload, Time to Disposition, and Trial Date Certainty performance reports have been adopted.

Age of Active Pending Caseload

The Age of Active Pending Caseload report measures the length of time a case is pending before the Court from the date of filing to the time of measurement. This report is used in conjunction with the Time to Disposition report to monitor the caseload. Tracking these reports allows the Court to monitor and focus attention on cases approaching the Courts' time standards. Excludable time, defined as periods of case inactivity beyond the Courts' control, is not included in the Age of Active Pending Caseload Report.

Time to Disposition

The Time to Disposition Report measures the number of cases disposed or resolved within the Courts' established timeframes. This report assesses the time it takes the Court to process cases. It is used to observe trends and to assure the effective use of resources. Excludable time is not included in the Time to Disposition Report.

Excludable Time

The Court has defined events that constitute excludable time for the Age of Active Pending Caseload and Time to Disposition reports. These are events that prevent movement of the case to disposition and are out of the Court's control.

The excludable events for Small Claims cases are:

- Interlocutory appeal from stay entered to stay lifted
- Bankruptcy stay entered to stay lifted
- Military stay entered to stay lifted
- Other stays that preclude any activity in case to stay lifted
- Ancillary proceedings that preclude all other activity in case to resolution of ancillary proceeding
- *Qui Tam* cases during period of seal to seal lifted
- Drayton stay entered to stay lifted

Time to Disposition: Performance Standards

Case Type	Disposition Standard
Small Claims Jury Cases	98% within 270 days
Small Claims Non-Jury Cases	98% within 365 days

Trial Date Certainty

The Trial Date Certainty Report is a case processing measure that assesses whether cases disposed of by trial are tried on the first trial date on which they are set, or if they are continued one or more times before the trial actually begins. *See* Administrative Order 08-14. Setting credible trial dates encourages proper preparation by all parties, furthers the interests of litigants and the public in timely justice, helps to assure effective calendaring of cases and utilization of resources, and promotes high quality justice. The report also provides reasons for continuances to assess trends and monitor trial performance goals. The Civil Division's goal is to dispose of 85% of Small Claims jury and 90% of Small Claims bench cases within two trial settings.

Caseflow Management

Consistent intervention by the Court ensures proper caseflow. For that reason, every open case must have a future hearing date. Consistent scheduling of events increases the level of judicial attention and case control necessary to achieve the Courts' performance goals. In order to achieve its performance goals the Division has implemented case processing techniques to monitor and control the progress of cases through resolution. These techniques include:

- Early and continuous electronic caseload monitoring;

- Differentiated case management plans; and
- Alternative Dispute Resolution (ADR)

The Civil Division has implemented electronic caseload inventory reports that monitor on a monthly basis the Division's clearance rates. Clearance rates are calculated as the number of outgoing cases as a percentage of the number of incoming cases. Clearance rates measure whether the Court is processing its incoming caseload timely to minimize a backlog of cases. Other reports provide data for trials held, pending motions, matters taken under advisement and cases without a future event. These reports are monitored frequently by the Judges and Court administrators to manage and control caseflow and ensure accurate case activity reporting. The Civil Division is able to identify emerging areas of concerns and pinpoint areas for development by continuously monitoring caseloads.

The Civil Division's differentiated case management (DCM) plan provides for the assignment of Small Claims cases with a jury demand to a "Small Claims track" with deadlines for each action to be taken in a case through the pre-trial conference. Given the expedited process, Small Claims cases without a jury demand are not assigned a track. However, a Small Claims case that is certified to the Civil Actions Branch pursuant to Superior Court Small Claims Rule 8 is subject to the Superior Court Rules of Civil Procedure and placed on an appropriate track.

If a jury demand is properly filed in a Small Claims case, the case is certified to the Civil Actions Branch for trial on an expedited basis pursuant to Superior Court Small Claims Rule 6. The case would then be assigned to the "Small Claims track" at the scheduling conference held by that judge. The track is customized with standardized time periods to exchange witness lists, complete discovery, file motions, complete ADR, and hold a pretrial/settlement conference before the Judge. This plan encourages meaningful pretrial conferences before Judges. Most trial dates are established only after pretrial conferences are held and all ADR efforts have been completed. This process assists Judges with continuous case control and scheduling firm trial dates.

In addition to early judicial intervention, the Division uses ADR methods such as mediation and arbitration to attempt to resolve cases as early as possible. Mediation is held for all Small Claims cases prior to trial and is usually held at the initial hearing. With the assistance of trained ADR professionals provided by the Multi-Door Dispute Resolution Division, most civil cases are resolved prior to trial through ADR.

Judicial Assignment

A Magistrate Judge is assigned to the Small Claims Courtroom by the Chief Judge on an annual basis. An Associate Judge or Magistrate Judge provides support to the assigned Magistrate Judge as needed. A written consent signed by all parties must be filed prior

to the commencement of a hearing before the Magistrate Judge. If all the parties do not consent to a Magistrate Judge, the case is assigned to an Associate Judge.

Case Types in the Small Claims Branch

The Small Claims and Conciliation Branch has exclusive jurisdiction of any action within the jurisdiction of the Superior Court which is only for the recovery of money, if the amount in controversy does not exceed $10,000.00, exclusive of interest, attorney fees, protest fees, and costs. An action which affects an interest in real property may not be brought in the Small Claims Branch. *See* D.C. Code § 11-1321.

An action seeking damages above $10,000.00, affecting an interest in real property or equitable relief should be filed in the Civil Actions Branch located in the Moultrie Courthouse, 500 Indiana Avenue, N.W., and Room 5000. A lawsuit for the possession of real property must be filed in the Landlord and Tenant Branch located at 510 4th Street N.W., Court Building B, Room 110.

Small Claims case types are assigned at case initiation based upon the monetary amount requested in the case. The case number consists of the year the case is filed followed by the case type and then a sequential number, i.e. (2016 SC1 0001). When a jury demand is filed in a case, the case type changes to SCJ.

Small Claims Case Types

Case Type	Amount of the claim	Filing Fee
SC1	$500.00 and less	$5.00
SC2	$500.01 and up to $2,500.00	$10.00
SC3	$2,500.01 and up to $10,000.00	$45.00
SCJ	$0.01 up to $10,000.00	$75.00

Legal Assistance

An individual person may file a complaint in the Small Claims Branch on his or her own behalf without the assistance of an attorney. A person who is not an attorney may not file a case on behalf of another person or a business. A business that files a claim in the Small Claims Branch must have an attorney.

The clerk's office can answer basic questions about how to fill out forms, provide an instruction sheet describing how to serve documents, and give other basic information. The clerk's office cannot give legal advice.

Parties who want legal assistance should seek it prior to the scheduled court date to be prepared for the hearing date. All parties are expected to understand and follow the Small Claims procedures and rules. The resources below are available to assist with Small Claims matters. These resources are coordinated by the D.C. Bar Pro Bono Center and are not staffed by court employees. Each resource should be contacted directly to confirm their hours of operation and procedures.

Legal Services for Self-Represented Parties

Resource	**Services Provided**	**Hours of Operation and Contact Information**
Small Claims Resource Center	Legal information to unrepresented plaintiffs and defendants related to Small Claims law and procedure in the District of Columbia.	Thursdays 9:15 a.m. – 12:00 p.m. 510 4th Street N.W., Building B, Room 208, Washington D.C., 20001
Consumer Law Resource Center	Free information for unrepresented consumers with consumer law matters governed by D.C. Law, including debt collection, home improvement/independent contractor disputes, security deposit refunds, Small Claims cases, used car or car repair disputes, utility disputes, and violations of the Consumer Protection Procedures Act	Wednesdays 9:15 a.m. – 12:00 p.m. 510 4th Street N.W., Building B, Room 208, Washington D.C., 20001
Consumer Law Court-Based Legal Services	Same-day assistance to eligible low-income defendants	Wednesdays Small Claims Courtroom B-119
The D.C. Bar Legal Information Help Line	Automated system of recorded messages giving basic information on more than 30 legal topics, finding an attorney, and the availability of free legal services in D.C.	202-626-3499 24 hours a day, 7 days a week in Amharic, Chinese, English, French, Korean, Spanish, and Vietnamese.

Clerk's Office Information

The Small Claims and Conciliation Branch is located at 510 4th Street N.W., Building B, Room 120, Washington D.C., 20001. The hours of operations are Monday through Friday, from 8:30 a.m. to 5:00 p.m., Wednesday evenings from 6:30 p.m. to 8:00 p.m., and Saturday mornings from 9:00 a.m. to 12:00 p.m. No court hearings are scheduled on Wednesday evenings or Saturday mornings.

The clerk's office may be contacted via telephone, email and internet chat during normal business hours.
Public Information Line
(202) 879-1120
Internet Chat-Line:
https://www.dccourts.gov/services/civil-matters
Note: The Chat Line icon is on the right of the screen.

Email Address:
smallclaimsdocket@dcsc.gov

Customers leaving internet chat messages and email messages after normal business hours will receive a response the next business day.

Case Management System

The Small Claims Branch does not retain paper records. When a party files a document, the clerk scans the document and saves an electronic copy in the Court's case management system. All documents are returned to the filer by the clerk prior to the filer leaving the office except for bulk cases and documents. Bulk cases and documents (6 or more documents or cases) are dropped off at the bulk filing window and returned to the filer within 3 business days. Filers are responsible for keeping all original documents until the conclusion of the case, including any appeal or the expiration of the time for appeal.

Court Cases Online

Dockets for Civil Division cases, including Small Claims cases, are available for viewing through Court Cases Online on the Court's website. Images of documents can also be viewed on a computer. The cost for copies of documents is $.50 (fifty cents) per page. It is the responsibility of each party to provide the case number to receive case information or documents. There is a $10.00 fee for the clerks to perform a case number search.

Filing Fees

Filing fees can be paid by cash, certified check, credit card, debit card or money order, payable to: "Clerk, D.C. Superior Court." All customers of the District of Columbia Courts are able to pay for their transactions with a personal check or money order up to $5,000. Any funds presented above $5,000 will have to be with a certified check, cash or money order. There is a 4.5% transaction fee for the use of a credit or debit card.

All filing fees may be accessed on the internet.

Waiver of Court Costs

If a party is unable to pay court costs, fees, or security without substantial hardship, the Court may waive the requirement to prepay court costs. *See* Super. Ct. Civ. R. 54-II. To request that the Court waive prepayment of court costs, an Application to Proceed without Prepayment of Costs, Fees, or Security Form 106A must be filed with the clerk, and must be approved by the Judge. If approved, the prepayment of court costs will be waived, however it does not completely waive the responsibility to pay court costs. In rare circumstances, a Judge could order the party to pay the court costs at the end of the case. If the request is denied, all court costs must be paid by the filing party.

The Lifecycle of a Small Claims Case

The following is a brief description of the lifecycle of a typical Small Claims case. The remainder of this plan explains how the Court manages each stage in the lifecycle of a Small Claims case.

Small Claims and Conciliation Branch Case Flow

Filing a Case

When filing a claim, the plaintiff must submit the following to the clerk:

1. The original Statement of Claim form and one additional copy for each defendant and service address
2. The Information Sheet
3. The Confidential Form

The forms can be filed in person or by mail. Attorneys filing 6 or more cases or documents must submit their documents in person to the clerk in the bulk filing room, located in Room 122.

The plaintiff must be 18 years of age to file a case. However, a minor or an incompetent person can only sue through a representative, a next friend or a guardian ad litem. Super. Ct. Civ. R. 17; Super. Ct. Sm. Cl. R. 2. Representatives, next friends, and guardians' ad litem are people who, under the law, can act for the minor or incompetent person. Corporations and partnerships that file a claim in the Small Claims Branch must have a lawyer. Super. Ct. Sm. Cl. R. 9.

Small Claims Branch forms are available online and in the clerk's office. Links to many forms are provided throughout this case management plan.

Statement of Claim Form

The Statement of Claim must contain a simple but complete statement of the plaintiff's claim and be accompanied by a copy of any contract, promissory note, or other instrument on which the claim is based. Super. Ct. Sm. Cl. R. 3.

All plaintiffs must sign the Statement of Claim form, including self represented plaintiffs (parties who do not have a lawyer) and give their address and telephone number. All signatures must be handwritten not stamped, except where provided by rule or statute. Super. Ct. Civ. R. 11.

A Sample Statement of Claim form is available to assist with completing the Statement of Claim form.

Information Sheet

The plaintiff must complete and file a Small Claims Information Sheet. The Information Sheet lists the different case types and the monetary amount in controversy. The plaintiff should check the box next to the appropriate case type (for example, breach of contract, personal injury) and the sum of money for which they are suing. If known, the plaintiff must also note if an interpreter is needed, and if they are suing a healthcare provider. To file a medical malpractice suit against a healthcare provider, the plaintiff must give the healthcare provider notice of the suit not less than 90 days prior to filing the Statement of Claim. *See* D.C. Code § 16-2802.

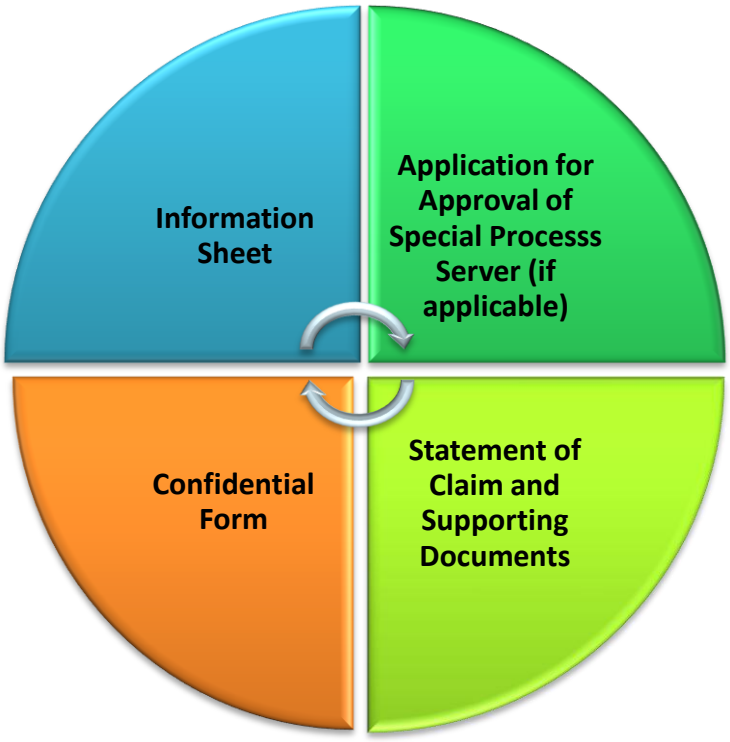
A Sample Information Sheet is available to assist with completing the Information Sheet.

Confidential Form

The Confidential Form is used to collect identifying information that will be entered into the case management system to consolidate identities and related cases in the case management system pursuant to Administrative Order 15-14. All parties are required to provide the date of birth, driver's license and email address on this form to be entered into the secured case management system. The information is kept confidential and the form is shredded after the information is entered into the secured database. Parties are required to update the form with identifying information that becomes available after the case is filed.

If the Statement of Claim form is accepted for filing, the clerk will assign and affix a case number and court date to the Statement of Claim. If the Statement of Claim form is not accurate the clerk will inform the party. If the documents are received by mail and the Statement of Claim is not acceptable for filing, all documents will be returned with a form indicating the reason that the Statement of Claim was not accepted.

Filing a Case



Serving the Defendant

The defendant(s) must be served with a copy of the Statement of Claim, verification, notice, any order granting a motion for extension of time to serve the defendant(s), and any attachments or other order directed by the Court by certified mail or special process server. Super. Ct. Sm. Cl. R. 4. (Note that the Statement of Claim, verification, and notice are usually included together on the Statement of Claim form).

The documents must be served on the defendant(s) within sixty (60) days of filing. However, for collections and insurance subrogation cases, service must be made within ninety (90) days of filing. Examples of collections cases include those cases where the plaintiff is suing to collect on a commercial loan debt, credit card debt, medical bill debt, student loan debt. Insurance subrogation cases are cases in which an insurance company is suing on behalf of their insured after an automobile incident.

Special Process Server

A special process server can serve the defendant for the plaintiff. A special process server must be any competent person who is at least 18 years of age and not a party to or otherwise interested in the case. The person does not need to be a professional process server. The plaintiff must complete and file an Application for Approval of Special Process Server. The fee to file an Application to Approve a Special Process Server is $5.00. The Small Claims Clerk's Office does not provide the names of professional process servers. The application must list the proper name(s) of the individual(s) serving the documents and may list multiple names of persons who may attempt to serve the documents. If the Process Server serves the Statement of Claim on the defendant before being approved by the clerk's office, service will not be valid, and the plaintiff will need to file an application to have the process server approved and serve the defendant again.

Certified mail

The defendant can also be served by certified or registered mail, return receipt requested, with or without restricted delivery. *See* Super. Ct. Sm. Cl. R. 4 (b) (2). Restricted delivery is a service offered by the United States Postal Service to deliver the mail only to the named person listed on the certified mail card and receive a signature from that person. There are additional fees for restricted delivery of the mail.

Only the Small Claims Clerk's office can mail the Statement of Claim with supporting documents by certified or registered mail. The clerk's office will serve the documents by certified mail without restricted delivery unless otherwise requested by the filer. The current filing fees for certified or registered mail with or without restricted delivery are located on online.

Serving a Business

To serve a corporation, partnership, or association within the United States, and unless an applicable law provides otherwise, service should be accomplished either:

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

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

To find out the name of an authorized agent that accepts service on behalf of a corporation, call the D.C. Department of Consumer and Regulatory Affairs, Corporate Division at (202) 442-4400 or (202) 442-4432 between 8:30 a.m. and 4:30 p.m., visit them at 1100 4th Street, S.W., Washington, D.C., 20024 on Monday, Tuesday, Wednesday and Friday between 8:30 a.m. and 4:30 p.m. and Thursday between 9:30 a.m. and 4:30 p.m. or search their website.

Serving the District of Columbia and its agencies

There are specific rules for serving the District of Columbia, an agency or officer of the District of Columbia, or another government entity. Super. Ct. Sm. Cl. R. 4 (h). For example, the District of Columbia must be served by delivering or mailing copies of the required materials to the Mayor of the District of Columbia (or designee) and the Attorney General of the District of Columbia (or designee) (formerly the "Office of the Corporation Counsel of the District of Columbia").

To find out who is authorized to accept service of process for the Mayor, call (202) 727-2643 and for the Office of the Attorney General for the District of Columbia, call (202) 727-6295. The address for the Office of the Attorney General for the District of Columbia is 441 4th Street, N.W., 6th Floor South, Washington, D.C. 20001. The address for the Mayor's Office is 441 4th Street, N.W., Room 1010 South, Washington, DC 20001.

Proof of Service

If the defendant is served by certified or registered mail, the green return receipt card must be received by clerk's office from the U.S. Postal Service at least seven (7) days before the initial court date. Super. Ct. Sm. Cl. R. 4 (k). The parties should call the clerk's office two business days before their scheduled court date or check the website (http://www.dccourts.gov/pa) to confirm that proof of service has been filed.

If the returned certified mail is marked "REFUSED" a refusal notice will be sent to the defendant informing them that they must appear for the hearing date. On this date, the Judge will make a decision on service of the Statement of Claim.

If the defendant is served by a special process server, an Affidavit of Service must be filed seven (7) days before the initial court date. Super. Ct. Sm. Cl. R. 4 (k). If the defendant is a business, the Affidavit of Service on a Corporation form must be filed.

If proof of service is not received by the Court before the 60 or 90 day period for service expires, the case may be dismissed. To avoid dismissal of the case, the plaintiff may file a Motion to extend the time for service. *See* Super. Ct. Sm. Cl. R. 4 (m).

If the Court grants an extension of time in which to serve the defendant, the court will issue a written order. The plaintiff must then ask for an alias statement of claim from the clerk's office. Then the defendant must be served with: (1) the alias notice of statement of claim obtained from the clerk's office, which includes notice of the next hearing date, and a copy of the original statement of claim, verification, and notice; (2) a copy of the order granting an extension of time to serve; and (3) any attachment or other order directed by the Court. Super. Ct. Sm. Cl. R. 4 (m) (3).

Late Return of Service

If the defendant was served and proof of service is filed, but it was not filed at least seven (7) business days before the initial scheduled court date, this is considered a late return of service. If the case has not been dismissed, the plaintiff may request a new court date by filing a Praecipe. The clerk's office will send the plaintiff and defendant notice of the new court date. There is no fee to reschedule the court date, also known as a "reset". The plaintiff does not need to serve the defendant again.

Insufficient Service

If service by certified or registered mail is insufficient (e.g., the party moved, the forwarding address expired, the mail is unclaimed, etc.) the case will not be heard by the Court on its scheduled date and the plaintiff must request to 're-issue' the Statement of Claim. The clerk will process an Alias Notice of Statement of Claim. There is a $5.00 fee for the issuance of an Alias Notice of Statement of Claim, plus the cost for service.

Answer, Counterclaim, Set-off, Cross-claim, Third Party Claim

The defendant is not required to file an answer, plea or defense in writing, except if the defendant wants to assert a counterclaim against the plaintiff or a set-off. Also, if the defendant wants to assert a cross-claim against a co-party or a third-party claim, the claim must be filed in writing. There is no limit on the monetary amount for a counterclaim or set-off. The hearings are usually scheduled for the same date as the initial hearing. The fee to file a counterclaim, cross-claim or third-party claim is $10.00. There is no fee to file a set-off.

Jury Demand

Any party may demand a jury trial (as to any issue that is triable of right by a jury). To demand a jury trial, the party must file the written demand and serve it on the other parties at or before the initial hearing. For good cause, the Court could extend the time period in which a party may file a jury demand. If the jury demand is being made by the defendant, the defendant must also file a verified answer setting out the facts on which the defense is based.

When a party properly makes a timely demand for trial by jury, the case is certified to the Civil Actions Branch for trial on an expedited basis. The case will not proceed in the Small Claims Branch. The case is assigned to a Civil II Associate Judge and remains subject to the Rules of Procedure for the Small Claims and Conciliation Branch. Super. Ct. Sm. Cl. R. 1 (a) (2), 6. An initial scheduling conference is scheduled and notice of the initial scheduling conference is mailed to all parties. The case action type for a jury demand is changed to "SCJ". All documents for a small claims jury demand case must be filed in the Small Claims Branch, even after it has been certified to an Associate Judge. The fee to file a jury demand is $75.00.

Cases Certified to Civil Actions in the Interest of Justice

With the approval of the Presiding Judge of the Civil Division, and when the interests of justice require, the Court may certify any action brought in the Small Claims Branch to the Civil Actions Branch for further proceedings. Super. Ct. Sm. Cl. R. 8. Any action certified to the Civil Actions Branch pursuant to Rule 8 is subject in all respects to the Superior Court Rules of Civil Procedure. Super. Ct. Sm. Cl. R. 1 (a) (3).

Hearings

Initial Hearing

All Initial Hearings are scheduled 21-30 days from the date the case is filed. The initial hearings are set to begin at 9:00 a.m. in the Small Claims Branch Courtroom 119, located at 510 4th Street, N.W., Court Building B. The Judge presiding in the Small Claims courtroom gives an opening statement to the parties to explain what will happen in Court that day and the basic laws and procedures governing cases brought in the Small Claims Branch. After the opening statement, the clerk calls all of the cases scheduled for an initial hearing that day. If both parties are present, the parties are referred to mediation. The initial hearings for all collection and subrogation cases are scheduled on Wednesdays.

Mediation

Mediation is used by the Court to allow parties the opportunity to settle their case without going to trial. It is mandatory that all parties attend mediation during the first

hearing and before going to trial. In the mediation session, a trained mediator helps the parties explain their claim(s) and defense(s) and discuss possible solutions or settlement. Everything discussed in mediation is confidential.

If an agreement is reached in mediation, the mediator will prepare a settlement agreement on a praecipe form to be signed by all parties. For collection and insurance subrogation cases the defendant can also meet with the plaintiff's attorney without a mediator to attempt to settle the case. If the case is settled the attorney will prepare the settlement agreement to be signed by all parties. All agreements are filed in Court and a copy is provided to all parties prior to leaving Court.

Continued Initial Hearing

If the Initial Hearing is continued by the parties or Court, a continued initial hearing is scheduled to be heard in the courtroom at 9:00 a.m. usually within 21-30 days. An initial hearing can be continued in Court or by consent of all parties. A party can request a hearing to be continued via telephone, motion or orally in Court. The Judge considers all continuance requests on the date of the scheduled hearing. The clerk may continue any case once as a matter of course for up to 30 days if the defendant received notice of the trial less than seven (7) days before the trial date, or if the parties have mutually agreed to a continuance. Super. Ct. Sm. Cl. R. 7. If a continuance is ordered by the Court, the clerk will give a notice to the parties showing the date and time to which the case was continued. If the party is not present in Court, the party is responsible for contacting the clerk's office to find out whether the continuance was approved.

Further Initial Hearing

If the initial hearing is removed from the docket because the defendant was not served or proof of service was not received by the Court at least seven (7) days before the initial hearing, the plaintiff may request another initial hearing. A further initial hearing will be scheduled for 9:00 a.m. usually within 21-30 days and notice is sent to the parties.

Hearing on Alias Summons

If the plaintiff has not been able to serve the defendant and needs to attempt service again, the plaintiff can request an Alias Notice of Statement of Claim. The Clerk's Office will prepare the Notice and schedule a hearing on alias summons for 9:00 a.m. within 21-30 days. The plaintiff must serve the defendant in a timely manner and file proof of service at least seven (7) days before the court date.

Ex-Parte Proof Hearing

An ex parte proof hearing is generally scheduled after a default has been entered. The plaintiff is expected to prove the allegations contained in the complaint and damages before a judgment can be entered. The hearing is usually scheduled within 21-30 days upon request of the plaintiff or by the Judge. Notices of the new date are mailed to all parties.

Motion Hearing

Motions should be filed in writing in the clerk's office. When a motion is filed, a hearing date is scheduled within 21 to 60 days. If the party is unrepresented (does not have a lawyer), then the clerk's office will send notice of the motion to the opposing party and note the date and method of service on the record. Parties who are represented by counsel are expected to serve written motions in accordance with Super. Ct. Civ. R. 5 and Super. Ct. Sm. Cl. R. 13 (b) (2). A party can also make an oral motion in Court that will be heard immediately in the courtroom upon approval by the Judge, or the Judge may direct the party to file a written motion in the clerk's office that will be scheduled for another date. The fee to file a motion is $10.00.

Oral Examination Hearing

If the prevailing party or judgment creditor is not aware of the losing party's assets (including bank accounts) or place of employment, an oral examination hearing may be requested to determine the whereabouts of the assets or place of employment. A subpoena can be filed by the judgment creditor fourteen (14) days after the judgment has been docketed. Super. Ct. Civ. R. 62; Super. Ct. Sm. Cl. R. 2. The subpoena form (pro se) and subpoena form (for attorneys) can be found on the court's website. The fee to file a Subpoena for Oral Examination is $10.00. The hearing is scheduled within 21 to 60 days from the date of filing. At the hearing, the judgment creditor and judgment debtor complete an oral exam questionnaire concerning the judgment debtor's assets in the mediation center with a mediator. If the judgment creditor is satisfied with the answers to the questionnaire the hearing is concluded. If the judgment creditor is not satisfied with the answers, a hearing will be held before the Judge.

Status Hearing

A status hearing may be scheduled by a Judge to inquire about the status of a case including actions to be taken by parties, bankruptcy stays, and service of process. Notice of the status hearing date is provided to all parties.

Bench Warrant Hearing

If a party does not appear for a hearing, the Judge can enter a bench warrant to apprehend the party for failure to appear. If a bench warrant is issued, the party who requested the bench warrant must return to the clerk's office to complete the Bench Warrant Authorization process. The party must take the form and pay a fee of $130.00 to the U.S. Marshal's Office at 555 4th Street N.W., 6th Floor, Washington D.C., 20001. The U.S. Marshal's Office will not serve documents outside of the District of Columbia.

The U.S. Marshal's Office will execute the bench warrant, and the party will be contacted to appear in Court for the bench warrant hearing. A bench warrant is generally issued when a party fails to appear for an oral examination hearing.

The bench warrant hearing is scheduled when the party is escorted to courthouse by the U.S. Marshal's Office for failure to appear. The clerk contacts the other party to notify them that the party has been apprehended and inquire whether they can appear in Court within two hours. If they cannot appear within a reasonable time, the hearing will be continued and a notice is provided to the parties.

Trial

If no agreement is reached in mediation, the mediator will schedule a date for the parties to return to court for a trial.

On the trial date, it is expected that all parties have adequate information to proceed with the trial. After the trial, the Judge renders a decision based upon the information and evidence provided during the trial.

Jury trials are not scheduled in the Small Claims Branch courtroom. If a demand for a jury trial is properly filed, the trial is held in the assigned Associate Judge's courtroom.

Appeal Process

The appeal process for the Small Claims Branch is based upon the Judge that renders the decision.

If a Magistrate Judge renders the decision, the party must file a motion for judicial review pursuant to Super. Ct. Civ. R. 73 in the Small Claims Clerk's Office. The motion for judicial review must be filed and served within fourteen (14) days after entry of the order or judgment. The filing fee for motions is $10.00. The motion will be reviewed by the Presiding Judge of the Civil Division or any other Associate Judge designated by the Chief Judge to conduct such reviews. The Judge who evaluates the Motion for Judicial Review will mail a copy of their order to all parties.

If the Presiding Judge or other Associate Judge who conducts this review denies the motion for judicial review, and the party wishes to appeal that decision, the party must file an Application for Allowance of an Appeal to the District of Columbia Court of Appeals, located at the Historic Courthouse 430 E Street N.W., Washington D.C., 20001. This application must be filed in the District of Columbia Court of Appeals within three (3) days from the date of judgment. D.C. Code § 17-307. The Court of Appeals may be reached by telephone at (202) 879-2700. The fee to file an Application for Allowance of an Appeal is $10.00. If the Application for Allowance of an Appeal is granted by the Court of Appeals, then an additional fee of $100.00 must be paid.

If the original decision was rendered by an Associate Judge, rather than a Magistrate Judge, and the party wishes to appeal it, the party must file an Application for Allowance of Appeal from the Small Claims Branch within business three (3) days from the date of the judgment, with the Court of Appeals.

Servicemembers Affidavit

The Servicemembers Civil Relief Act ("SCRA"), 50 USCS § 3901, *et seq.*, provides that in any civil action or proceeding in which the defendant does not make an appearance, before entering a judgment, the Court must require the plaintiff to file an affidavit stating whether or not the defendant is in military service and showing necessary facts to support the affidavit or if the plaintiff is unable to determine whether or not the defendant is in military service. 50 USCS § 3931.

In order to better comply with the requirements of the SCRA, the Court has created a Servicemember's Civil Relief Act Affidavit (CA 114) and amended Super. Ct. Civ. R. 55 and 55-II to require the use of Form CA 114 in all proceedings in the Civil Division in which a default has been entered.

A separate affidavit must be filed for each defendant named in the Statement of Claim and against whom a default has been entered. The search results required for the form must be conducted not more than 30 days before the filing of the affidavit. The instructions for filling out Form CA 114 are found on the Court's website.

Judgment Collection

The Superior Court does not collect or pay the judgment award to the winning party. The winning party must collect the money judgment that was ordered by the Judge. Legal Action to execute on a judgment cannot be issued it until fourteen (14) days have passed after the judgment has been entered on the Courts' official record. Super. Ct. Civ. R. 62; Super. Ct. Sm. Cl. R. 2.

Certified Copy of Judgment

The judgment creditor (the party to whom the debt is owed) can request a certified copy of a judgment to present to the judgment debtor (the party that owes the debt) and obtain the judgment debtor's signature upon payment of the judgment. To have a judgment marked paid and satisfied, the judgment creditor can file the receipt of the Certified Copy of Judgment or a Praecipe requesting the judgment to be marked paid and satisfied. The clerk can prepare a certificate for verification of a judgment that is paid and satisfied. The fee for a Certified Copy of a Judgment is $5.00. There is no fee to file the receipt or praecipe to mark a judgment paid and satisfied.

Writ of Attachment

Fourteen (14) days after a judgment is docketed in a case, the judgment creditor can file a Writ of Attachment (Wages) to attach the judgment debtor's wages and a Writ of Attachment (Other Than Wages) to attach money, property or credits owed to the judgment debtor that are held by a third party, usually from a financial institution. The fee to file a Writ of Attachment is $10.00.

The Writ of Attachment can only be issued against property located in the District of Columbia, an employee of the District of Columbia or on a Federal or District of Columbia government agency. It must list a District of Columbia address or government agency but can be mailed to an institution or agency outside of the District of Columbia, as long as the property is located in the District of Columbia or with a government agency.

A Writ of Attachment must be served by an individual other than the party or an interested person. The clerk's office does not serve Writs of Attachment unless the judgment creditor has been approved to proceed without prepayment of costs, by the Judge. The clerk's office will issue the writ by certified mail if the prepayment of costs is waived.

Proof of service of the Writ of Attachment must be filed in the clerk's office. The garnishee (the person required by court order to seize property belonging to a debtor) is required to file an answer to the Writ of Attachment within ten days after the writ is served. The judgment creditor must obtain a Judgment of Condemnation to retrieve property attached pursuant to the Writ of Attachment for Other than Wages. A Judgment of Condemnation is prepared by the clerk and can only be issued upon proof of service of the Writ of Attachment. The fee for a Judgment of Condemnation is $5.00.

If the Writ of Attachment for Other than Wages attaches exempt property of the judgment debtor, the judgment debtor can file a Motion for Exemption. A hearing on the motion will be set no later than seven (7) days after the filing of the motion, unless the moving party requests a later date or the parties otherwise agree. Super. Ct. Civ. R. 69-I; Super. Ct. Sm. Cl. R. 2. The fee to file the motion is $10.00.

Writ of Fieri Facias

Fourteen (14) days after a judgment is docketed in a case, a judgment creditor can file a Writ of Fieri Facias to attach goods and chattels such as money in a cash register (till tap), business assets or other personal property held by the judgment debtor. The Writ of Fieri Facias and a Process Receipt and Return form is completed by the clerk. The judgment creditor must take these forms to the U.S. Marshal's Office for execution. The judgment creditor may be required to provide an indemnity bond and an advance deposit to cover the U.S. Marshal's Office estimated out-of-pocket expenses. The judgment creditor should accompany the U.S. Marshal's Office in executing the writ. The U.S. Marshal's Office files proof of execution of the Writ of Fieri Facias. The U.S. Marshal will not execute on property located outside of the District of Columbia. The fee to file a Writ of Fieri Facias is $10.00. There is also a fee of $110.00 required for execution on Writs of Fieri Facias and tendered directly to the US Marshal's Office.

Certified Copy of Judgment – DMV

To record a judgment with the District of Columbia Department of Motor Vehicles, in cases involving an automobile accident, the judgment creditor can request a Certified Copy of Judgment for DMV. The clerk prepares the DMV certificate and mails the certificate to DMV by regular mail. There is a $5.00 fee for a Certified Copy of Judgment – DMV.

True Test Certificate for Recording with the Recorder of Deeds

To record a judgment with the Recorder of Deeds for the District of Columbia, the judgment creditor can request a True Test for Recording with the Recorder of Deeds. The clerk prepares the True Test Certificate. The judgment creditor files the True Test Certificate with the Recorder of Deeds. There is a $5.00 fee for a True Test Certificate for Recording with the Recorder of Deeds.

Triple Certificate

To file a judgment in a foreign jurisdiction, the judgment creditor can request a Triple Certificate. The clerk prepares the Triple Certificate and forwards it to the Chief Judge for signature. It takes three to five business days to receive a Triple Certificate. The clerk either mails the Triple Certificate to the judgment creditor or calls the judgment creditor to pick up the certificate when it is ready, pursuant to the request of the judgment creditor. The judgment creditor is responsible for filing the Triple Certificate with the foreign jurisdiction along with any other required documents. There is a $10.00 fee for a Triple Certificate.

Foreign Judgment

A judgment creditor (the party for whom judgment was entered) can file a request to file a foreign judgment. A foreign judgment is a judgment that was entered in the United States, but not within the jurisdiction of the District of Columbia. A party might file this because they wish to have the foreign judgment docketed within the District of Columbia for enforcement purposes. The filing fee for the foreign judgment is determined by the judgment amount requested, and the case will be assigned a case number and type (SC1, SC2, or SC3) based on this amount. *See* D.C. Code § 15-352 for more information.

District of Columbia Superior Court

CIVIL DIVISION

Landlord and Tenant Branch

Case Management Plan

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Purpose

All cases filed in the Civil Division, Landlord and Tenant Branch of the Superior Court of the District of Columbia are to be determined in a just, speedy and inexpensive manner in accordance with the Superior Court Rules of Civil Procedure for the Landlord and Tenant Branch. The purpose of this case management plan is to give parties a broad understanding of case management in the Landlord and Tenant Branch within the scope of the rules. It details the actions the court takes to monitor and control the progress of a case, from initiation through final disposition, and to ensure prompt resolution consistent with the individual circumstances of the cases. Specifically, the case management plan provides court staff and the public with information about the procedures used to ensure efficient and effective case processing in the Landlord and Tenant Branch. This plan is not a substitute for the advice of a lawyer. The law can be very complicated, and it is not possible to address every situation in one document. Parties are strongly encouraged to talk to a lawyer to help protect their legal rights. The Superior Court Rules of Civil Procedure for the Landlord and Tenant Branch referenced in this document can be accessed on the court's website for more information.

Performance Measures

In 2005, the District of Columbia Courts' policy making body, the Joint Committee on Judicial Administration, adopted a set of nationally recognized measures to assess and report on the court's performance of timely and efficient resolution of cases. Performance measures set benchmarks the D.C. Courts strive to achieve in order to deliver justice effectively and enhance accountability to the public.

Performance assessments allow the court leadership to monitor operational efficiency and assess how well the court is doing in achieving its goals. In order to assess the court's performance and monitor cases, the Age of Active Pending Caseload, Time to Disposition, and Trial Date Certainty performance reports have been adopted.

Age of Active Pending Caseload

The Age of Active Pending Caseload report measures the length of time a case is pending before the court from the date of filing to the time of measurement. This report is used in conjunction with the Time to Disposition report to monitor the caseload. Tracking these reports allows the court to monitor and focus attention on cases approaching the court's time standards. Excludable time, defined as periods of case inactivity beyond the court's control, is not included in the Age of Active Pending Caseload Report.

Time to Disposition

The Time to Disposition Report measures the number of cases disposed or resolved within the court's established timeframes. This report assesses the time it takes the court to process cases. It is used to observe trends and to assure the effective use of resources. Excludable time is not included in the Time to Disposition Report.

Excludable Time

The court has defined events that constitute excludable time for the Age of Active Pending Caseload and Time to Disposition reports. These are events that prevent movement of the case to disposition and are out of the court's control.

The excludable events for L&T cases are:

- interlocutory appeal from stay entered to stay lifted
- bankruptcy stay entered to stay lifted
- military stay entered to stay lifted
- Drayton stay entered to stay lifted
- other stay that precludes any activity in case to stay lifted
- ancillary proceeding that precludes all other activity in case to resolution of ancillary proceeding
- qui tam cases during period of seal to seal lifted

Time to Disposition: Performance Standards

Case Type	Disposition Standard
Landlord Tenant Non-Jury Cases	98% within 150 days
Landlord Tenant Jury Cases	98% within 9 months

Trial Date Certainty

The Trial Date Certainty Report is a case processing measure that assesses whether cases that are disposed of by trial are tried on the first trial date they are set or are continued one or more times before the trial actually begins. *See* Admin order 8-14. Setting credible trial dates encourages proper preparation by all parties, furthers the interests of litigants and the public in timely justice, helps to assure effective calendaring of cases and utilization of resources, and promotes high quality justice. The report also provides reasons for continuances to assess trends and monitor trial performance goals. The Civil Division's goal is to dispose of 85% of Landlord and Tenant cases within two trial settings.

Case Flow Management

Consistent intervention by the court ensures proper case flow. For that reason, every open case must have a future hearing date. Consistent scheduling of events increases the level of judicial attention and case control necessary to achieve the court's

performance goals. In order to achieve its performance goals the division has implemented case processing techniques to monitor and control the progress of cases through resolution. These techniques include:

- Early and continuous electronic caseload monitoring;
- Differentiated case management plans; and
- Alternative Dispute Resolution (ADR)

The Civil Division has implemented electronic caseload inventory reports that monitor on a monthly basis the division's clearance rates. Clearance rates are calculated as the number of outgoing cases as a percentage of the number of incoming cases. Clearance rates measure whether the court is processing its incoming caseload timely to minimize a backlog of cases. Other reports provide data for trials held, pending motions, matters taken under advisement and cases without a future event. These reports are monitored frequently by the judges and court administrators to manage and control caseflow and ensure accurate case activity reporting. The Civil Division is able to identify emerging areas of concerns and pinpoint areas for development by continuously monitoring caseloads.

The Civil Division's differentiated case management (DCM) plan provides for the assignment of L&T cases with jury demand to an "L&T track" with deadlines for each action to be taken in a case through the pre-trial conference. A case is assigned to the "L&T track" at the scheduling conference. The track is customized with standardized time periods to exchange witness lists, complete discovery, file motions, complete ADR, and hold a pretrial/settlement conference before the judge. This plan encourages meaningful pretrial conferences before judges. Most trial dates are established only after pretrial conferences are held and all ADR efforts have been completed. This process assists judges with continuous case control and scheduling firm trial dates. Given the expedited process for landlord and tenant cases, non-jury cases are not assigned a track.

In addition to early judicial intervention, the division uses ADR methods such as mediation, arbitration, and case evaluation to attempt to resolve cases as early as possible. With the assistance of trained ADR professionals provided by the Multi-Door Dispute Resolution Division, most civil cases are resolved prior to trial through alternative dispute resolution.

Judicial Assignments

There are two L&T Courtrooms, which are presided over by D.C. Superior Court Associate Judges, Magistrate Judges and Senior Judges. Fourteen Associate Judges preside in Courtroom B-109, rotating on a weekly basis Tuesday thru Thursday and two Magistrate Judges are assigned to this Courtroom on a weekly basis Monday and Friday. The second courtroom, Courtroom B-53 is presided over by a rotation of Senior

Judges on Monday through Friday. The Presiding Judge and Deputy Presiding Judge provide support on an as needed basis.

If a case is certified to the Civil Actions Branch due to the filing of a jury demand, that case will be assigned to an Associate Judge. An Associate Judge assigned to a case after the filing of a jury demand is referred to as the "calendar judge" in this document.

Interview and Judgment Officer

To assist the court in processing cases, the Interview and Judgment Officer (IJO) has the authority to approve certain types of agreements and orders. The IJO is located in Room 111 and is available from 8:30 a.m. to 4:00 p.m. Monday through Friday. Parties are encouraged to use the IJO to perform all of the following functions permitted by L&T Rule 11-I.

- When one party is appearing *pro se*, or when all parties are represented by an attorney, the IJO has the authority to do the following:
    - Enter protective orders requiring payment into the court registry
- When at least one party is appearing pro se, the IJO has the authority to:
    - Approve a Consent Judgment Praecipe executed on a Form 4 or 4a and signed by all parties
    - Approve disbursement orders
- When all parties are represented by an attorney, the IJO has the authority to:
    - Approve any consent judgment agreement signed by the attorneys for all parties
    - Accept jury demands and certify cases to the Civil Actions Branch
    - Enter other consent orders, including:
        - Orders to amend (non-jury cases only)
        - Orders for repairs
        - Orders related to discovery (non-jury cases only)
        - Orders to substitute parties (non-jury cases only)

Case Types in the L&T Branch

The Landlord and Tenant Branch is a court of limited jurisdiction. Every case filed in the Landlord and Tenant Branch begins with a "Verified Complaint for Possession of Real Property." A Verified Complaint for Possession of Real Property is a request that the court issue the plaintiff a judgment for possession of real property against the defendant. A judgment for possession of real property against the defendant gives the plaintiff the right to file a writ of restitution, which is a court document authorizing the eviction of the defendant under the supervision of the United States Marshals Service.

If a Verified Complaint for Possession of Real Property is based on nonpayment of rent, the complaint may also include a request for a money judgment in the amount of rent the tenant owes the landlord. *See* L&T Rule 3. In addition to a claim for possession of real property, it may also include a claim for the recovery of personal property located in the premises and belonging to the plaintiff. *See* L&T Rule 3. If a plaintiff only wants to collect rent or other damages, and is not seeking an order to evict the defendant, the plaintiff must file a lawsuit in the Small Claims and Conciliation Branch (for cases seeking $10,000 or less) or the Civil Actions Branch (for cases seeking more than $10,000.01) per DC Code 11-1321.

Although most cases in the L&T Branch are brought by landlords seeking to evict tenants for nonpayment of rent or for some other violation of the lease, cases in the L&T Branch do not always involve landlords and tenants. For example, a plaintiff might be seeking possession from someone who is a squatter, a foreclosed homeowner, terminated employee, or terminated cooperative member.

Tenants may not file complaints in the L&T Branch; however, a tenant who is sued for nonpayment of rent in the L&T Branch can file a counterclaim. Please refer to the section on
Counterclaims for more information. Tenants who are not sued for nonpayment of rent can file a lawsuit in the Small Claims and Conciliation Branch (for cases seeking $10,000 or less) and the Civil Actions Branch (for cases seeking more than $10,000.01 or seeking repairs because of violations of the D.C. Housing Code).

Housing Conditions Calendar

The housing conditions calendar allows tenants to sue landlords for D.C. Housing Code violations on an expedited basis. The housing conditions calendar is limited in nature and only available for those seeking to enforce compliance with D.C. Housing Code Regulations, 14 D.C.M.R. §§ 500-900, 1200. Tenants seeking other relief, such as monetary relief for the condition of the property, return of a security deposit, personal injury, or possession of rental property, must file a separate, non-housing conditions claim in the Small Claims Branch or in the Civil Actions Branch, or as a counterclaim to a Landlord & Tenant case.

Cases on the housing conditions calendar will have the first hearing scheduled less than a month after the suit is filed. The tenant-plaintiff is responsible for serving (giving official legal notice) the landlord-defendant at least eight calendar days in advance of the hearing.

To file a case, a plaintiff must file a complaint and summons with the Civil Actions Branch Clerk's office, Moultrie Courthouse located at 500 Indiana Ave., N.W., Room 5000. A copy of the complaint and summons must then be served on the defendant.

Additional information on how to file a housing code complaint is available online. https://www.dccourts.gov/sites/default/files/HCC_InstructionSheetForHousingCodeComplaint.pdf

Legal Assistance

An individual person may file a complaint in the Landlord and Tenant Branch on his or her own behalf without the assistance of an attorney. A person who is not an attorney may not file a case on behalf of another person or a business. The only reason a person who is not an attorney may appear before the court on behalf of another party is to request a continuance. Corporations and certain other businesses that are plaintiffs in landlord and tenant cases must be represented by an attorney at all times, including when the complaint is filed. Corporations and certain other businesses that are defendants in landlord and tenant cases may appear through an authorized officer, director, or employee solely for the purpose of entering into consent agreements if they have the authority to do so. *See* L&T Rule 9 and Court of Appeals Rule 49 (c).

The clerk's office can answer basic questions about how to fill out complaint and summons forms, provide an instruction sheet describing how to serve the complaint and summons, and give other basic information. The clerk's office cannot give legal advice. Links to all documents available online are provided in this plan. They are also available in the clerk's office and online.

Parties are strongly encouraged to seek the advice of an attorney to help protect their legal rights. The clerk's office is not allowed to answer questions about whether a notice to quit is needed, what to ask the court for, whether a person can be sued for a particular reason, how likely a party is to succeed, what happens if a tenant pays or moves out before the case is in court, or any other issue that will affect the parties' rights. Those are the types of questions to ask an attorney.

The resources below are available to assist with landlord and tenant matters. These resources are coordinated by the D.C. Bar Pro Bono Center and are not staffed by court employees. Each resource should be contacted directly to confirm their hours of operation and procedures.

Legal Services for Self-Represented Parties

The Landlord and Tenant Resource Center	Free legal information for both unrepresented tenants and small landlords who have residential housing disputes in D.C.	Court Building B, 510 4th St., N.W., Room 208 ; Monday - Friday 9:15 a.m. to 12:00 p.m.
D.C. Law Students in Court	Students from local law schools are available year round to provide advice to unrepresented tenants and assist them in filling out forms and pleadings. Please note that the number of student attorneys varies throughout the year. In some cases, a student supervised by a licensed attorney will represent a tenant throughout the case.	Court Building B, 510 4th St., NW, Room 210 ; Monday - Friday beginning at 9:30 a.m.
The D.C. Bar Advice and Referral Clinic	Free assistance with any civil legal problem governed by D.C. law or federal law including bankruptcy/debt collection, civil rights, consumer law, employment law, health law, housing law, personal & property damage, public benefits and tax law	2nd Saturday of the month 10 a.m. - 12 p.m. at 2 locations: Bread for the City — Northwest Center, 1525 7th St. NW & Bread for the City — Southeast Center, 1640 Good Hope Rd. SE.
The D.C. Bar Legal Information Help Line	Automated system of recorded messages giving basic information on more than 30 legal topics, finding an attorney, and the availability of free legal services in D.C.	202-626-3499 24 hours a day, seven days a week in Amharic, Chinese, English, French, Korean, Spanish, and Vietnamese.

Clerk's Office Information

The clerk's office is located at 510 4th Street N.W., Washington D.C., Court Building B, Room 110. It is open weekdays from 8:30 a.m. to 5:00 p.m.; Saturdays from 9:00 a.m. to 12:00 p.m.; and Wednesdays from 6:30 p.m. to 8:00 p.m.

The clerk's office may be contacted via telephone as follows:

Landlord & Tenant Clerk's Office: (202) 879-4879

Interview &Judgment Office: (202) 879-4889

L&T Finance Office: (202) 508-1636

The Landlord and Tenant Branch live chat feature is available on the internet Monday through Friday from 8:30 a.m. – 5:30 p.m. The live chat feature is located to the far right margin of the page.

Case Management System

The L&T Branch does not maintain paper records. When a party files a document, the clerk scans the paper filing and saves an electronic copy in the court's case management system. The original complaint is returned to the plaintiff after the initial hearing. All other documents are returned to the filer immediately by the clerk who accepts the filing. Filers are responsible for maintaining all original documents until the conclusion of the case, including any appeal or the expiration of the time for appeal.

Court Cases Online

Dockets for Civil Division cases, including L&T cases, are available for viewing through Court Cases Online on the court's website. The images of items entered on the docket are not viewable through this system. Images of items on the docket must be viewed on a computer provided in the clerk's office.

E-filing

E-filing is a method of initiating complaints and processing subsequent documents. The process consists of initiating Landlord & Tenant case types electronically.
D.C. barred attorneys will be required to file electronically once efiling becomes available. Court participants that are not represented by an attorney have the option of filing electronically or in paper. The clerk will e-serve the service copy of filed documents to the filer via CaseFileXpress.

Filing Fees

Filing fees and protective order payments can be paid by cash, check, credit or debit card, certified check, or money order, and made payable to: "Clerk, D.C. Superior Court. A 4.5 percent service transaction fee is applied to all payment submitted by credit or debit card. Checks must be made payable to: "Clerk, D.C. Superior Court." A list of all Filing Fees can be accessed on the internet.

Waiver of Court Costs

If a party is unable to pay court costs, fees, or security without substantial hardship, the court may waive the requirement to prepay court costs. Civil Rule 54-II. When the court waives prepayment of court costs, it is called "in forma pauperis," "IFP" or "without prepayment of costs." To request the court waive prepayment of court costs, an Application to Proceed without Prepayment of Costs, Fees, or Security Form 106A must be filed with the clerk's office. Parties may file an application at any time, either in open court or with the clerk's office. If the application is filed in the clerk's office, the clerk will advise the filer of whether a hearing is required, or whether a judge will review the application without holding a hearing. If a hearing is not held, the filer may contact the clerk's office the next business day to find out if the application was granted or denied.

If IFP status is granted, it does not completely waive the responsibility to pay court costs. In rare circumstances, a judge could order the party to pay the court costs at the end of the case.

The Lifecycle of an L&T Case

Below is a brief description of the lifecycle of a typical L&T case. The remainder of this plan explains how the court manages each stage in the lifecycle of an L&T case.

1. Plaintiff files a complaint and summons
2. Clerk schedules an initial hearing
3. Plaintiff's process server serves defendant with the complaint and summons and files an affidavit of service
4. Initial court hearing
5. Court enters judgment as a result of:
   a. Default;
   b. Confession;
   c. Consent judgment agreement;
   d. Breach of settlement agreement; or
   e. Trial
6. Enforcement of judgment, usually by writ of restitution

Filing a Case

An L&T complaint must be filed using an L&T Complaint Form **and** Summons to Appear in Court and Notice of Hearing (L&T Form-1S). The fee for filing the complaint is $15.00.

There are four separate and distinct Verified Complaints for Possession of Real Property. The complaints are numbered Form 1A, Form 1B, Form 1C, and Form 1D. Only one of the complaint forms should be used depending on the type of case.

1. Form 1A: Nonpayment of Rent - Residential Property *must* be used if the only reason the plaintiff is suing the defendant is for failure to pay rent. Form 1A must be used even if the defendant was served with a notice to quit for nonpayment of rent or notice to correct or vacate for nonpayment of rent.

   Examples for when to use Form 1A:

   - The tenant has failed to pay rent and the right to receive a notice to quit for nonpayment is waived in the lease.
   - The tenant has failed to pay rent and was served with a 30-day notice to correct or vacate stating that rent is owed and has 30 days to come current. There are no other lease violations listed in the notice to correct or vacate.

2. Form 1B: Violation of Obligations of Tenancy or Other Grounds for Eviction - Residential Property must be used if the only reason the plaintiff is suing the defendant is because the defendant violated an obligation of the tenancy or for other grounds for eviction, such as a squatter or operation of a drug-haven. If the complaint for possession includes a claim for nonpayment of rent in addition to an allegation that the defendant violated an obligation of the tenancy do not use this form.

   Note: Do not use this form if the only basis for the complaint for possession is nonpayment of rent.

   Examples for when to use Form 1B:

   - The tenant has violated the terms of the lease agreement by damaging the property and disturbing other tenants. The plaintiff has served a 30-day notice to correct or vacate, the notice has expired, and the tenant has not corrected the violations. There is no allegation of nonpayment of rent in the notice to correct or vacate.
   - The plaintiff served the tenant with a 90-day notice to vacate for personal use and occupancy.
   - A person is in the home who is not a tenant and who refuses to leave.
   - The tenant is maintaining a drug haven in the property.

3. Form 1C: Nonpayment of Rent and Other Grounds for Eviction – Residential Property must be used if the complaint for possession includes a claim for nonpayment of rent and an allegation that the defendant violated an obligation of the tenancy.

   Examples for when to use Form 1C:

   - The tenant has failed to pay rent and the right to receive a notice to quit for nonpayment is waived in the lease. The tenant has also violated the terms of the lease agreement by keeping a dog in the unit. The tenant was served with a 30-day notice to correct or vacate, the notice has expired, and the tenant has not corrected the violation by removing the dog. The plaintiff wants to sue the tenant for both nonpayment of rent and for violating the lease by having a dog.
   - The tenant has failed to pay some rent and has been habitually late with the rental payment. The tenant has been served with a 30-day notice to correct or vacate stating that he or she owes rent *and* has been habitually late with rent. The notice has now expired and the tenant has not paid the rent and has not made timely rental payments.

Note: Do not use this form if the only basis for the complaint for possession is nonpayment of rent, even if the defendant was served with a notice to quit for nonpayment of rent or notice to correct or vacate.

4. Form 1D: Commercial Property must be used if the complaint for possession involves a commercial tenancy. The basis for the claim of possession does not matter, whether it is nonpayment of rent or expiration of a notice to quit, if the property is commercial property this complaint must be used.

   Examples for when to use Form 1D:

   - The plaintiff is the owner of commercial property and the commercial tenant has failed to pay rent.
   - The plaintiff is the owner of commercial property and the commercial tenant is violating the terms of the lease agreement.
   - The plaintiff is the owner of commercial property and the lease with the commercial tenant has expired.

The plaintiff is required to use one of these complaint forms. It is important to choose the correct form and fill it out completely and accurately. Make sure the writing on the complaint can be read clearly on all of the copies in dark black ink. The forms can also be completed electronically online. The Landlord and Tenant Branch Clerk's Office will give the plaintiff whichever form is requested. If the plaintiff is not certain which form to use, he or she must seek information from the Landlord and Tenant Resource Center or legal advice from an attorney.

In most cases, a plaintiff must serve a notice to quit before filing an L&T complaint. The most notable reasons for not requiring a plaintiff to serve a notice to quit are: (1) complaints for nonpayment of rent where the notice to quit was waived in the lease; (2) complaints alleging that the defendant is maintaining a drug haven; (3) complaints alleging that the defendant is not a tenant. For questions about whether to serve a notice to quit, the content of a notice to quit, or how to serve a notice to quit, the plaintiff should consult with an attorney. The clerk's office cannot provide instructions on notices to quit.

Instructions on how to complete the form complaints are available in the clerk's office or online.

- Form1A_FilingInstructions.pdf
- Form_1B_Filing_Instructions.pdf
- Form1C-Filing-Instructions.pdf
- Form_1D_Filing_Instructions.pdf

Summons to Appear in Court and Notice of Hearing Form

A completed Summons to Appear in Court and Notice of Hearing (L&T Form-1S-Summons) must accompany the complaint. The Landlord and Tenant Branch Clerk's Office will give the plaintiff a court date to insert on the summons.

Bulk-Filers and Other Individuals Filing Multiple Cases at the Same Time

In order to expedite delivery and processing of multiple complaints filed at the same time, the clerk's office requires the following:

- The summons must be presented on top of each corresponding complaint.
- Present the stack of forms to the clerk in the following order:
    1. Original, white summons followed by triplicate copies of the summons
    2. Original, white complaint, followed by triplicate copies of the complaint.
    3. Repeat for each case
- Tear the copies apart before delivering the forms to the clerk but do not separate the triplicate copies into separate piles.
- The complaint *must* be completed with dark black ink or typed.
- The individual complaint pages and summons must be unstapled.
- All complaint types should be sorted by type of form before filing (i.e. all Forms 1A together, followed by Forms 1B, etc.).
- The notary stamp must be visible.

Service of the Complaint and Summons

Who May Serve

The summons and complaint and any attachments must be served by a competent person who is at least 18 years of age and not a party to the case.

Service Information for Plaintiffs with an Prepayment of Costs (IFP) Approved

A plaintiff with an approved application to proceed without prepayment of costs (IFP) should attempt to have a friend or family member serve the defendant. If the plaintiff is unable to serve the defendant, the plaintiff should explain the reason why the defendant was not served to the judge at the initial hearing. The judge may order the clerk's office to serve the defendant.

Timing and Methods of Service

Service must be made not later than 7 days before the initial hearing date, not counting Sundays and legal holidays. *See* D.C. Code § 16-1502.

There are three methods to serve an L&T Summons and Complaint: (1) personal service; (2) substitute service; (3) service by posting and mailing. They are described in detail in the paragraphs below. In every case, the process server first must make good faith efforts to make personal service. If the process server has made a diligent and conscientious effort at personal service and has been unable to serve a defendant either personally or by substitute service, then the process server may, as a last resort, serve that defendant by posting and mailing.

If the plaintiff is seeking a money judgment in addition to a judgment for possession, then there must be personal service on each defendant against whom a money judgment is sought. If the defendant is not served personally, then the plaintiff may be limited to a judgment for possession against that defendant.

Personal Service

Personal Service on a defendant who is an individual is made by giving a copy of the summons and complaint directly to the defendant in person.

Substitute Service

If the plaintiff cannot find the defendant or if the defendant has left the District of Columbia, service may be accomplished by leaving a copy of the summons and complaint at the premises with a person of "suitable discretion" who is at least 16 years old and resides in or is in possession of the premises.

Service by Posting and Mailing

Service by posting and mailing may be used only as a last resort, after diligent and conscientious efforts to serve the defendant personally have failed. If there is a question about service by posting and mailing, the judge will decide if the process server has been diligent and conscientious, considering the facts of the case. Generally, a judge will find that a process server has made diligent and conscientious efforts to serve the defendant personally only if the attempts were made on two different days and at two different times of day. For example, if one attempt is made on a weekday during normal business hours, the other attempt should be before or after normal business hours or on the weekend.

To serve by posting and mailing, the summons and complaint must be posted on the premises in a conspicuous place where it may be conveniently read, usually referred to as the front door of the unit. Posting means physically attaching the summons and complaint to the premises. The server cannot slide the papers under the door, stick the papers between the door and doorframe, or place them in a mailbox. After posting the summons and complaint, a copy of the summons and complaint must be mailed to the defendant within 3 calendar days. Saturdays, Sundays, and legal holidays count toward the 3 days.

Service on a Corporation or LLC

Service on a corporation or limited liability company (LLC) may be made by giving a copy of the summons and complaint to an officer, managing or general agent, registered agent, or any other person authorized by law or appointment. If there is no registered agent, the corporation or LLC may be served through the Mayor. Contact the Department of Consumer and Regulatory Affairs for instructions.

Proof of Service

The person who serves the summons and complaint must file proof of service in the Clerk's office at least 5 days before the initial hearing date, not counting Saturdays, Sundays, and legal holidays. A completed affidavit must be signed and sworn to before a notary public or other person authorized by law to administer an oath and must be filed with the court. A separate affidavit must be filed for each defendant. If a summons is not served along with the complaint, the court may dismiss the case.

If the plaintiff has personally served the defendant, the first box on the affidavit of service should be checked. The name of the person served should be written in the blank space for the name on the affidavit and a physical description of the defendant should be provided in the specific facts portion at the end of the affidavit.

For substitute service, the second box on the affidavit should be checked. List the name of the person served and give a description of the person served in the specific facts portion at the end of the Affidavit.

If service is by posting and mailing, the date and time of all attempts at personal service should be recorded in the affidavit, including when posting was made, and the date the summons and complaint were mailed. In the specific facts portion at the end of the affidavit, a description of where the summons and complaint were posted, including the location in the building, a physical description of the premises, and/or any other information that would help the court determine if service was proper should be provided.

For service on a corporation or LLC, the fourth box on the affidavit should be checked. Write the name of the person served in the blank space for the name on the affidavit, circle that person's title, and give a physical description of that person or other relevant facts in the specific facts portion at the end of the affidavit. If an alternative method of service on a corporation is used, indicate the method of service in the affidavit and provide any relevant facts.

Filing an Answer

Defendants are not required to file a written answer unless they are requesting a trial by jury or asserting a plea of title or counterclaim. *See* L&T Rules 5 and 6. An answer may be filed in the clerk's office before the initial hearing, in open court on the date of the initial hearing, or in the clerk's office after the initial hearing.

In cases where both the plaintiff and defendant are represented by attorneys, and the defendant wishes to file an answer and jury demand, the parties have the option of filing a joint praecipe to cancel the initial hearing and requesting the case be certified to the Civil Actions Branch for a scheduling conference.

There is no fee for filing an answer without a counterclaim or jury demand.

Jury Demands

A jury demand must be filed no later than the day of the initial hearing, or a later date, if the court allows. *See* L&T Rule 6. If a defendant wishes to file a jury demand but is not prepared to do so at the initial hearing, the court may continue the case for two weeks. *See* L&T Rule 12. If a defendant wishes to file a jury demand at a later time, the defendant must file a motion requesting leave to file a jury demand.

The jury demand must be accompanied by a $75 filing fee and a verified answer setting out the facts upon which the defense is based. *See* L&T Rule 6.

Plea of Title

If the defense to an L&T case is ownership of the property, the defendant must file an answer in writing, called a plea of title. L&T Rule 5(c) provides that a plea of title must be filed in writing, under oath, and with a certification that the plea of title is filed in good faith and not for the purpose of delay. An application for an undertaking or for a waiver of the undertaking (usually a bond or other payment(s) into the court registry) must also be filed. The court's procedure for handling cases with a plea of title is discussed in more detail in the "Plea of Title" section.

Counterclaims

A defendant sued for nonpayment of rent may file a counterclaim to recover rent that was overpaid, receive credit for expenses paid, or for an order requiring a landlord to make repairs. *See* L&T Rule 5(b). No other counterclaims, whether based on personal injury or otherwise, may be filed in the Landlord and Tenant Branch. A counterclaim may be filed anytime after service of the complaint and summons. The fee for filing a counterclaim is $10.

Scheduled Hearings

Initial hearings are scheduled at least 21 calendar days from the file date. All other hearings are scheduled not sooner than 10 calendar days unless the matter is an emergency. Emergency requests are reviewed by the L&T attorney advisor to determine whether an emergency exists and requires a same day hearing. Otherwise, the matter will be referred to the clerk's office for scheduling consistent with established written business processes. Court participants will receive a notice of hearing for future hearings if the party failed to appear. The clerk's office is responsible for mailing

notices for all unrepresented court participants; otherwise the attorney is required to provide notice of the hearing date and time to the opposite party.

Note: All hearings are scheduled based on availability within established calendar blocks. The Landlord and Tenant Clerk's Office will schedule all matters for a hearing not earlier than the l0th calendar day after filing the document with the Clerk's Office. Pursuant to Super. Ct. Civ. Rule 69-I(i), incorporated by L&T Rule 2, Motions Claiming Exemptions from Writ of Attachment will be scheduled **not later than the 10th calendar day after filing**. A Consent to Magistrate Judge Form must be signed by all parties present at a court proceeding conducted by a Magistrate Judge pursuant to Super. Ct. Civ. R. 73. The Consent to Magistrate Judge Form should be completed before roll call. You can ask the courtroom clerk or clerk's office for the form.

Initial Hearings

Initial hearings are scheduled for 9:00 a.m. in the Landlord and Tenant Courtroom, located at 510 4th Street, N.W., Court Building B, Courtroom 109. Initial hearings are usually scheduled to occur about three weeks after the complaint is filed. At 9:00 a.m. each morning, the judge presiding over the L&T Branch takes the bench and gives an opening statement to the parties to explain what will happen in court that day and the basic laws and procedures governing cases brought in the L&T Branch. *See* L&T Rule 11(a).

After the opening statement, the clerk calls all of the cases scheduled for initial hearing. *See* L&T Rule 11(b). If there is no problem with the complaint and affidavit of service filed in the case and the defendant or his or her representative does not answer when the case is called, then a default is entered. If the plaintiff or his or her representative does not answer, then the case is dismissed. *See* L&T Rule 11(c). If both parties are present, they are instructed to go outside the courtroom to see if they can resolve their case by talking to each other or with the assistance of a free court mediator.

If the parties resolve their differences, they can file a settlement agreement or a consent judgment agreement. These agreements are discussed in more detail in the section titled "Settlement Agreements and Consent Judgment Agreements."

If the parties do not resolve their case, the case is called before the judge who will ask the parties what the case is about and determine whether there are any defenses. *See* L&T Rule 12. If the defendant does not present any legal defenses, the judge will enter a judgment in favor of the plaintiff, generally called a "judgment by confession." If the defendant presents legal defenses, the judge will schedule the case for trial, usually in three weeks' time, or permit the defendant to file an answer with a jury demand. If a jury demand is properly filed, the court will certify the case to the Civil Actions Branch where it will be assigned to a calendar judge and scheduled for trial on an expedited basis. *See* L&T Rule 6. Jury demands are discussed in more detail in the section titled "Jury Demands."

If the case is continued, the judge may enter a protective order, or continue the case "with all rights reserved," so that at the next hearing the plaintiff may request a protective order beginning from the date of the initial hearing and the defendant may request a jury demand. Protective Orders are discussed in more detail in the section titled "

Protective Orders."

Motions

Motions may be made orally in the courtroom or filed in writing. When a motion depends on facts not apparent from the record, the motion must be in writing and must include a statement of the facts and law on which the motion is based. *See* L&T Rule 13(a). The motion may be supported by affidavits or other forms of sworn testimony, and the court may require the submission of evidence.

Before filing a motion, the party must contact the Landlord and Tenant Clerk's Office in person, by telephone or email to obtain a hearing date. The hearing date can be reserved by submitting an e-mail to L&TGroup@dcsc.gov.

When making the request, the following must be stated:

- case number;
- whether the motion will be served by hand or mail;
- requested hearing date; and
- motion filing date.

After making the reservation, the actual motion must be filed with the clerk's office within 24 hours or the next business day. Reservations are accepted Monday through Friday. For Friday reservations, the motion must be filed on the next full business day. For example, a motion reserved for hearing on Friday may be filed on Saturday; however it must be filed on Monday, the next full business day when the L&T Clerk's Office is open. The same is true for a holiday and court closure due to inclement weather or an emergency. Motions reserved the day before the holiday, inclement weather or emergency must be filed the next full business day when the L&T Clerk's Office is open.

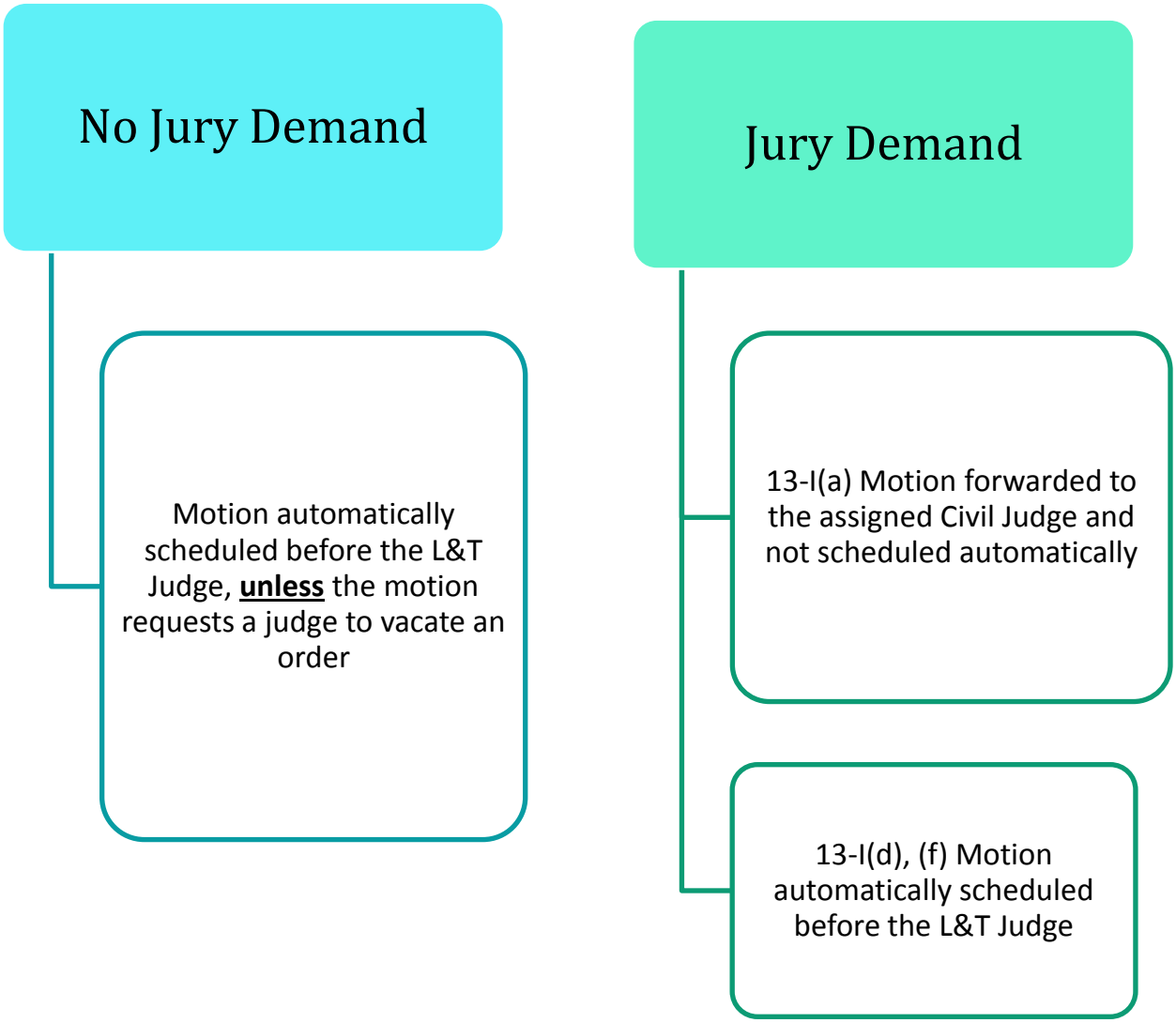
A motion for summary judgment will be set for hearing not earlier than the 10th calendar day after the day of filing of the motion if served by hand or the 13th calendar if served by mail. All other motions will be set for hearing not earlier than the 7th calendar day following the filing of the motion if served by hand or the 10th calendar if served by mail. *See* L&T Rule 13(b)(2). For example, if a motion for summary judgment is filed on January 15th and it was served by hand, the earliest date for the hearing is January 25th. If it was served by mailing, the earliest hearing date is January 28th.

After obtaining a hearing date, parties represented by counsel must serve the motion by hand or by mail. Parties not represented by counsel may serve the motion by hand or may ask the clerk to serve the opposing party by mail. *See* L&T Rule 13.

Most motions filed in L&T cases will be scheduled for hearing before a judge sitting in the L&T Branch. However, if the defendant has filed a jury demand, L&T Rule 13-I specifies certain motions that will be forwarded to the judge assigned to the case, who may resolve the motion with or without a hearing. Also, if a motion requests the court change what a judge has done, that motion will usually be forwarded to the judge whose action the party seeks to change. That judge may resolve the motion with or without a hearing. If the motion is one that will not be automatically scheduled for hearing in the L&T Branch, a motion hearing may be requested by writing "Oral Hearing Requested," above the party's signature on the motion. *See* L&T Rule 13(c)(4).

Motions Forwarded to the Assigned Civil Judge for Jury Demand Cases	**Motions Automatically Scheduled before the L&T Judge for both Jury and Non-Jury Demand Cases**
Motions to dismiss	Motions relating to a protective order
Motions concerning discovery	Motions for an administrative stay of the proceedings (e.g. a *Drayton* Stay)
Motions for summary judgment	Motions for temporary restraining order/preliminary injunction
Motions concerning the conduct of trial, i.e. motions in limine to exclude or receive evidence	Motions to enforce settlement agreements/consent judgment, unless otherwise specified by the court in the agreement
Motions to amend the pleadings	Post-trial Motions, not concerning the conduct of trial or appeal of the judgment
Motions filed pursuant to Civil Rules 17-25; (real parties/capacity; joinder of claims and remedies; joinder of persons; permissive joinder of parties; misjoinder; and non-joinder of parties; interpleader; class actions; derivative actions by shareholders; actions relating to unincorporated associations)	All others motions except those motions related to any subject that are filed **during trial or so close to trial** that a hearing cannot be scheduled in the L&T Branch before the trial date
Motions to continue trial or any other hearing before the assigned judge	
Motions relating to the entry and withdrawal of counsel	
Motions for recusal of the assigned judge	
Motions to consolidate or sever	
Motions related to any subject that are filed during trial or so close to trial that a hearing cannot be scheduled in the L&T Branch before the trial date	
Post-trial motions concerning the conduct or outcome of the trial or an appeal of the judgment	
Motions to vacate dismissals, defaults, or default judgments entered by the assigned judge	
Motions to alter, amend, or for relief from, an order issued by the assigned judge (typical motion for reconsideration)	
Motions for an enlargement of time to file any motion, opposition, or other paper that will be determined by the assigned judge in accordance with the motions listed above.	

L&T Motions Flowchart



Opposing a Motion

A party opposing a motion must attend the hearing on the motion, either personally or through an attorney. A memorandum of opposing points and authorities may also be filed before the hearing but does not excuse appearance at the hearing. *See* L&T Rule 13(b)(4).

To oppose a motion not scheduled for a hearing before the judge sitting in the L&T Branch, a party may file a statement of opposing points and authorities within 14 days after service of the motion as calculated by Civil Rule 6 or such further time as the court may grant. *See* L&T Rule 13(c)(3).

Motions for Summary Judgment

Any party seeking summary judgment can file a motion in accordance with Civil Rules 12-I (k) and 56. To oppose a motion for summary judgment, the party must do the following:

- ***Motions to be decided in the Landlord and Tenant Branch.*** A party intending to oppose a motion for summary judgment to be decided in the Landlord and Tenant Branch must attend the motion hearing and must set forth specific facts showing the existence of a genuine issue for trial by either (A) filing a written opposition in accordance with Civil Rule 12-I (k) and 56; or (B) presenting live testimony or producing affidavits or other admissible evidence at the hearing. The court may require the filing of a written opposition in accordance with Civil Rules 12-I (k) and 56 instead of the presentation of live testimony or other admissible evidence. *See* L&T Rule 13(d)(1).
- ***Motions to be decided in the Civil Actions Branch.*** A party intending to oppose a motion for summary judgment to be decided by a judge in the Civil Actions Branch pursuant to L&T Rule 13-I must file a written opposition in accordance with Civil Rules 12-I(k) and 56. Any party may request a hearing on such a motion by stating at the bottom of the party's motion or opposition, above the party's signature, "Oral Hearing Requested." If the judge decides to hold a hearing on the motion, the judge must give all parties appropriate notice of the hearing and may specify the matters to be addressed at the hearing. *See* L&T Rule 13(d)(2).

Continuing a Hearing

If a party cannot attend a scheduled hearing, the party must call the L&T Clerk's Office or file a motion requesting the court to continue the hearing. Requesting a continuance does not guarantee that a judge will grant the request. It is the party's responsibility to follow-up with the court to find out if a judge granted the request and to find out the new hearing date.

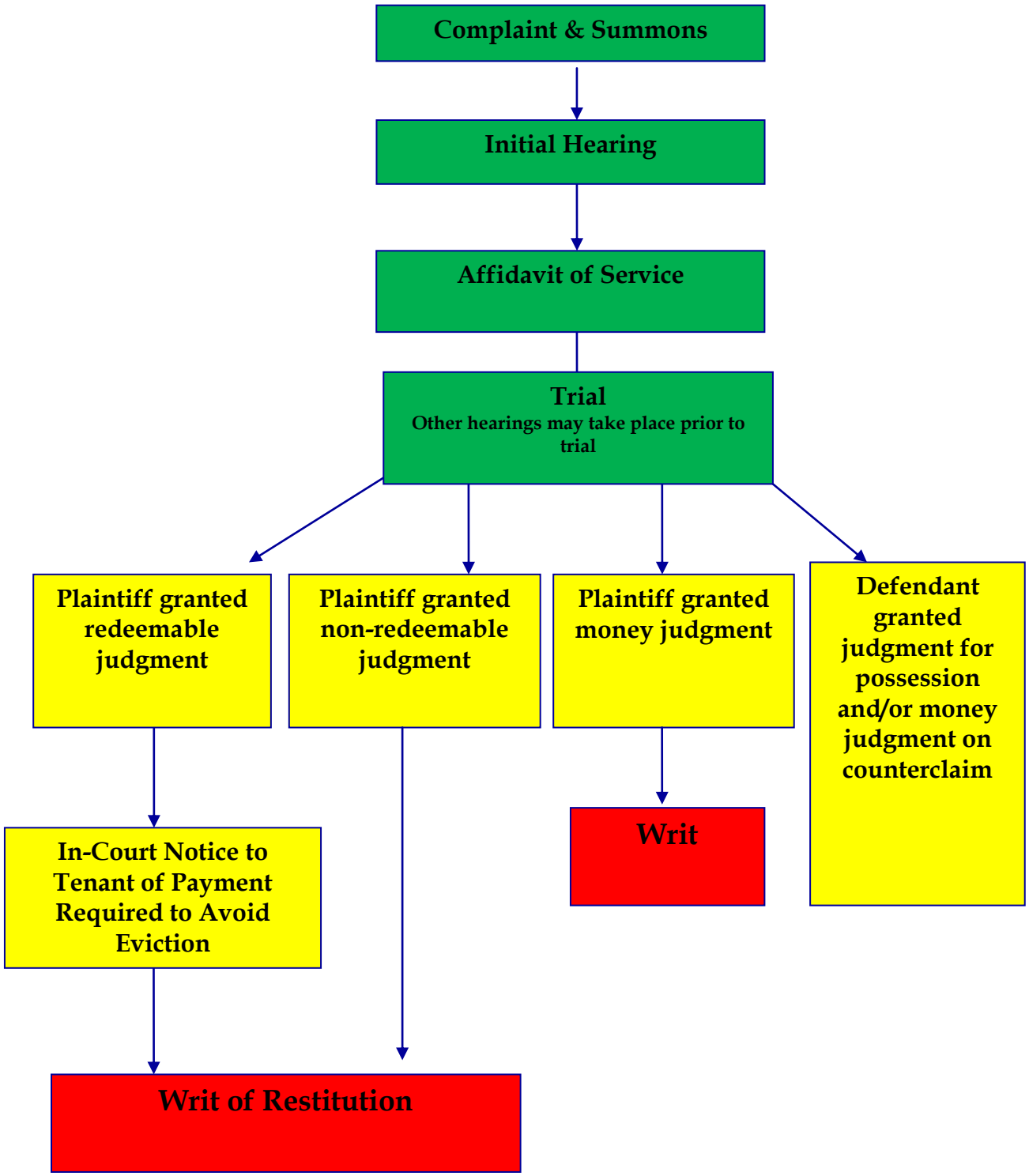
Parties may complete a consent praecipe signed by both parties to continue any hearing set in the Landlord and Tenant Branch, excluding trials, without leave of the court. *See* L&T Rule 11. Parties cannot continue hearings scheduled on an individual judge's calendar unless that individual judge grants a motion for a continuance. No party or their attorney may continue a case without the expressed consent of the other party or leave of court, including *ex parte* proof hearings.

If all parties do not consent to a continuance, a party may also come to court any day before the scheduled date and request the court to continue the initial hearing date. Before requesting a continuance, the party must contact the other party to notify them of their oral request to continue the hearing. The other party does not need to agree to the continuance request. If court is in session, the judge will have a hearing on the request.

Bench Trials

Bench trial dates are set by consent of the parties or by the judge. Trials are usually scheduled about three weeks from the date of the request. If a bench trial is scheduled, parties are instructed to report to the courtroom for trial at 11:00 a.m. At 11:00 a.m., the clerk will call each case scheduled for trial, and the judge will ask the parties about the substance of the claims and defenses, the number of witnesses, and the projected length of the trial. After inquiring about the parties' readiness, the judge will usually require the parties speak with a mediator. If mediation is not successful, the judge will hear the trial, certify the case to another judge, or in rare instances, continue it to another date.

Landlord & Tenant Branch
Bench Trial Process



Cases Certified to the Civil Actions Branch

Jury Demand Cases

If a defendant makes an approved jury demand in court, then the case is certified to the Civil Actions Branch and assigned a calendar judge who will preside over the jury trial. At the time the case is certified, the parties are told the name of the calendar judge and a date to report for a scheduling conference before the calendar judge, usually a Friday two weeks after the date the case is certified.

At the scheduling conference, the calendar judge will give the parties a scheduling order that puts the case on an L&T track which is used to efficiently move the case through the system. This order sets the closing date for discovery, generally 45 days after the scheduling conference. After this date, no motions relating to discovery can be filed, except by leave of court. The mediation date is also set at the scheduling conference. The date of mediation is usually 30 days after the close of discovery. On the date of mediation, parties should report to Building C, 410 E Street N.W., Second Floor, Washington, D.C. 20001, not the building where the L&T Clerk's Office and courtroom are located.

If the parties resolve their case during mediation, the parties are given a copy of the agreement and the case is closed. If the parties have not resolved their case at the end of mediation, the mediator will give the parties a date to appear before the calendar judge for a pretrial conference. The pretrial conference is scheduled for at least 30 days after the mediation.

The parties must meet three weeks prior to the pretrial conference to try to reach an agreement on important issues. At that time, each party must identify each of its witnesses, documents or photographs, and jury instructions for trial. Two weeks before the pretrial conference, each party must file and serve any motion related to the conduct of the trial and deliver it to the judge. One week prior to the pretrial conference, the parties must file with the court and deliver to the calendar judge a joint pretrial statement that complies with Civil Rule 16(e), and that explains, among other things, any objection each party has to the other party's proposed witnesses and exhibits.

At the pretrial conference, the judge may try to help the parties reach a settlement. Each party has to attend in person. If a party is an organization, a person with authority to settle the case must attend the pretrial conference, or request the judge's permission for the person to be available by telephone. If a party fails to attend, the judge may dismiss the case, enter a default judgment, or impose a fine. If the case is not settled at the pretrial conference, the judge will set a trial date.

See Civil Rule 16 and L&T Rules 2 and 10(d).

Plea of Title Cases

If the defendant's defense to an L&T case is that the defendant is the owner of the property, the defendant must file an answer in writing, called a plea of title. *See* L&T Rule 5(c). When a defendant files a plea of title, the court must set an amount of an undertaking or waive the requirement that the defendant pay an undertaking. Once the undertaking is paid or waived, the L&T case is closed, and a new case is initiated in the Civil Actions Branch to resolve the issue of title. Because the L&T case is closed, payments made as required by the undertaking should be made in the Civil Actions Branch, not in the L&T Clerk's Office.

In the Civil Actions Branch case, the parties' title (plaintiff and defendant) remains the same as in the L&T case. The case is subject to all of the Superior Court Rules of Civil Procedure. *See* L&T Rule 1. Parties should consult the Civil Action Branch Case Management Plan for additional information about how cases are managed in the Civil Actions Branch.

After the issue of title has been resolved, the Civil Actions Branch case is closed and the L&T case is reopened.

Discovery

L&T Rule 10 describes discovery in L&T cases. In cases involving nonpayment of rent, the plaintiff is required to bring any records that show the defendant's payment and nonpayment of rent for the entire period at issue to every hearing. A plaintiff can be sanctioned for failing to bring these records to court. In cases where there is no jury demand, additional discovery may be requested by a motion accompanied by the proposed discovery requests. In cases where there is a jury demand, parties are permitted to serve 10 interrogatories and 10 requests for production of documents without seeking permission of the court. *See* L&T Rule 10.

Protective Orders

Entry of a Protective Order

A protective order in a L&T case is an order that requires a defendant to make future payments into the court registry while the case is pending. *See* L&T Rule 12-I. Protective orders do not require a defendant to make back payments into the court registry.

Either party may request a protective order. A protective order may be requested orally if both parties are present. Otherwise, a party must file a written motion requesting a protective order. A protective order may also be entered by consent. If the protective order is entered by consent, either the judge or the Interview and Judgment Officer may approve it. *See* L&T Rule 11-I(a)(2) and (b)(2).

If the protective order is not entered by consent of both parties, the court will determine the amount of money that should be paid each month, which usually is the amount of

the monthly rent. A defendant may request that the court reduce the amount of the protective order based on housing code violations. If a defendant makes this request, the court may continue the case for the parties to present evidence at a hearing called a *Bell* Hearing.

After the court enters the order, either the Interview & Judgment Officer or the courtroom clerk will give the defendant paperwork that explains how to make the protective order payments.

Making Protective Order Payments

Deposits to the court registry must be paid at the L&T Clerk's Office and cannot be paid by mail. The L&T Clerk's Office is located in Court Building B, 510 4th Street N.W., Room 110. Deposits to the court registry may be made by cash, check, and credit or debit card. Checks must be made payable to Clerk, D.C. Superior Court. A 4.5 percent service transaction fee is applied to all payments submitted by credit or debit card. The clerk's office is unable to accept protective order payments after the case is settled or closed.

Modifying a Protective Order

Either party may file a motion to modify the protective order after it is initially ordered. *See* L&T Rule 12-I (b). For example, a plaintiff may make a request to increase the protective order because he or she has repaired the housing code violations that entitled the defendant to the entry of a protective order in an amount less than the contract rent. Likewise, a defendant may make a request to reduce the protective order due to housing code violations. Generally a motion to modify a protective order does not need to be decided by the judge who entered the protective order, and will be scheduled for hearing before a judge sitting in the L&T Branch.

Sanctions for Failing to Pay the Protective Order

If a defendant fails to make the payments required by a protective order, a plaintiff can file a motion for sanctions. *See* L&T Rule 12(g). Sanctions entered by a judge for a defendant's failure to pay the protective order can include striking a defendant's jury demand, striking certain defenses, or entering a judgment for possession in favor of the plaintiff.

Release of Funds in the Court Registry

If there is no agreement by the parties or a decision by a judge about how the funds in the court registry should be released, then either party may file a motion requesting the funds be released. A judge will determine how the funds deposited by the defendant should be released.

Once the judge has determined how the funds will be released, the party or parties seeking release of the funds must complete a "Disbursements from the Registry of the Court " form which must be signed by a judge or the Interview and Judgment Officer.

If the parties agree about how the funds in the registry should be released, they should file a praecipe or other agreement with the clerk, signed by both parties. The party or parties seeking release of the funds must also complete a "Disbursements from the Registry of the Court" form with the clerk.

A check will be mailed by the court to the party to whom the funds are being released within 7-10 calendar days. If the party receiving the funds would like to pick up the check from the Budget and Finance Office rather than have it mailed, the party must indicate that on the disbursement order. The Budget and Finance Office is located at 616 H Street, 6th floor, Washington, D.C. 20001.

Entry of Judgment

Settlement Agreements and Consent Judgment Agreements

There are two types of agreements settling cases: consent judgments and settlement agreements.

The parties can complete a Consent Judgment Form 4(a) and Consent Settlement Form 4(b) to file a consent judgment and settlement agreement with the clerk's office at any time. The parties can use an Addendum Page to list all repairs that the landlord agrees to make. These forms are not required to write out a settlement agreement or consent judgment. The parties can also use a praecipe form for consent judgments and settlement agreements.

Parties are not required to enter into any agreement, and should not sign any agreement unless the parties understand everything in the agreement and agree to all of its terms. If the parties have any questions about an agreement, the party should ask the questions to the attorneys at the Landlord and Tenant Resource Center, the Interview and Judgment Officer, or the Judge.

Entry of Judgment by Consent

A consent judgment is a written agreement that allows the plaintiff to get a judgment for possession against the defendant. All consent judgment agreements must be approved by either the Interview and Judgment Officer or a judge.

In cases based on nonpayment of rent, a consent judgment usually includes a schedule for a defendant to make payments towards an arrearage. The defendant gives up any defenses available at a trial, and in return, the plaintiff agrees not to evict the defendant as long as the defendant makes all of the payments in the amounts and at the times specified in the agreement.

A consent judgment also may list repairs that the plaintiff agrees to make. In a consent judgment, the promise to pay rent and the promise to make repairs are independent. If the plaintiff fails to make the agreed-upon repairs, the defendant must continue to pay

rent, but may file with the court a notice to show cause why the repairs have not been made or a motion to enforce the plaintiff's obligation to make repairs. *See* L&T Form 4(a).

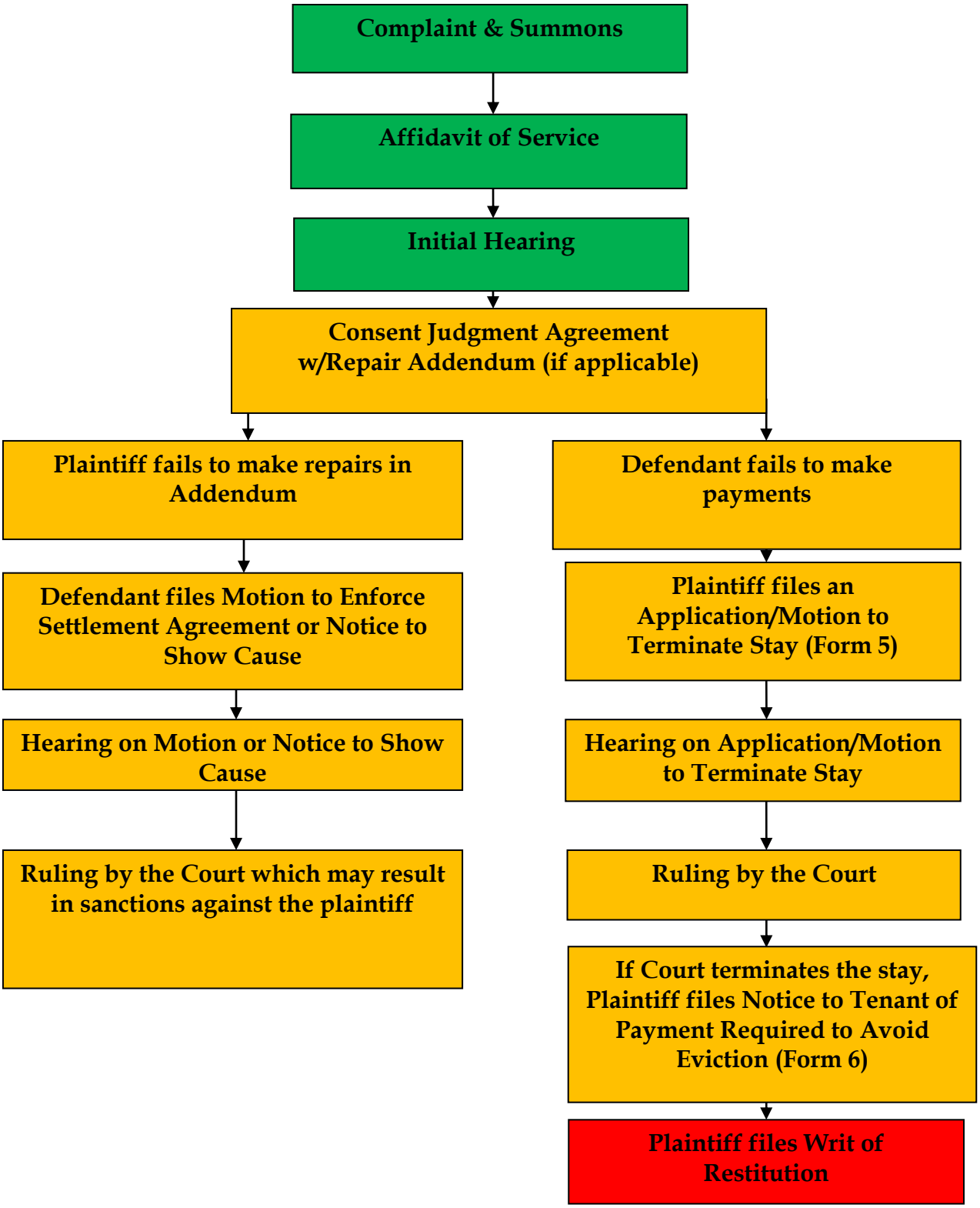
If the defendant pays the rent in the amounts and at the times specified in the judgment, a permanent stay of execution is automatically entered and the defendant cannot be evicted.

If the defendant violates the consent judgment agreement, the plaintiff can seek to enforce the judgment by following the procedure specified in the agreement. The plaintiff must provide the defendant with notice of the motion or application to terminate the stay, as required by the terms of the consent judgment. If the consent judgment was entered on a Consent Judgment Form 4(a), the plaintiff may file an Application for Termination of Stay. If the agreement does not specify a procedure for terminating the stay, the plaintiff should file a motion in accordance with L&T Rule 13. If an "Application for Termination of Stay," is required, the plaintiff must serve the defendant with the application five business days before the plaintiff intends to appear in court to have the stay lifted. The application to terminate stay is scheduled for hearing in front of the judge presiding over the L&T Branch on the date indicated on the application and all parties must report to the courtroom for the hearing. The defendant can contest the plaintiff's application or motion to lift the stay on the consent judgment at the hearing. A judge will consider any defenses relevant to the claim that the defendant breached the agreement.

Unless the agreement provides otherwise, a defendant may redeem the tenancy by paying in full the past due rent, and avoid eviction even after defaulting by paying all of the rent, interest, and costs owed to the plaintiff at any time before the eviction. Redeeming the tenancy is discussed more in the section "

Redeemable v. Nonredeemable Judgments for Possession"

Landlord & Tenant Branch
Judgment by Consent



Settlement Agreements

Like a consent judgment agreement, a settlement agreement also may require a defendant to make payments and a plaintiff to make repairs. A settlement, like a consent judgment, can include other promises between the plaintiff and defendant. However, with a settlement agreement, a judgment is not entered when the agreement is signed. The agreement should specify what type of relief will be available to each party if the other side violates the terms of the agreement.

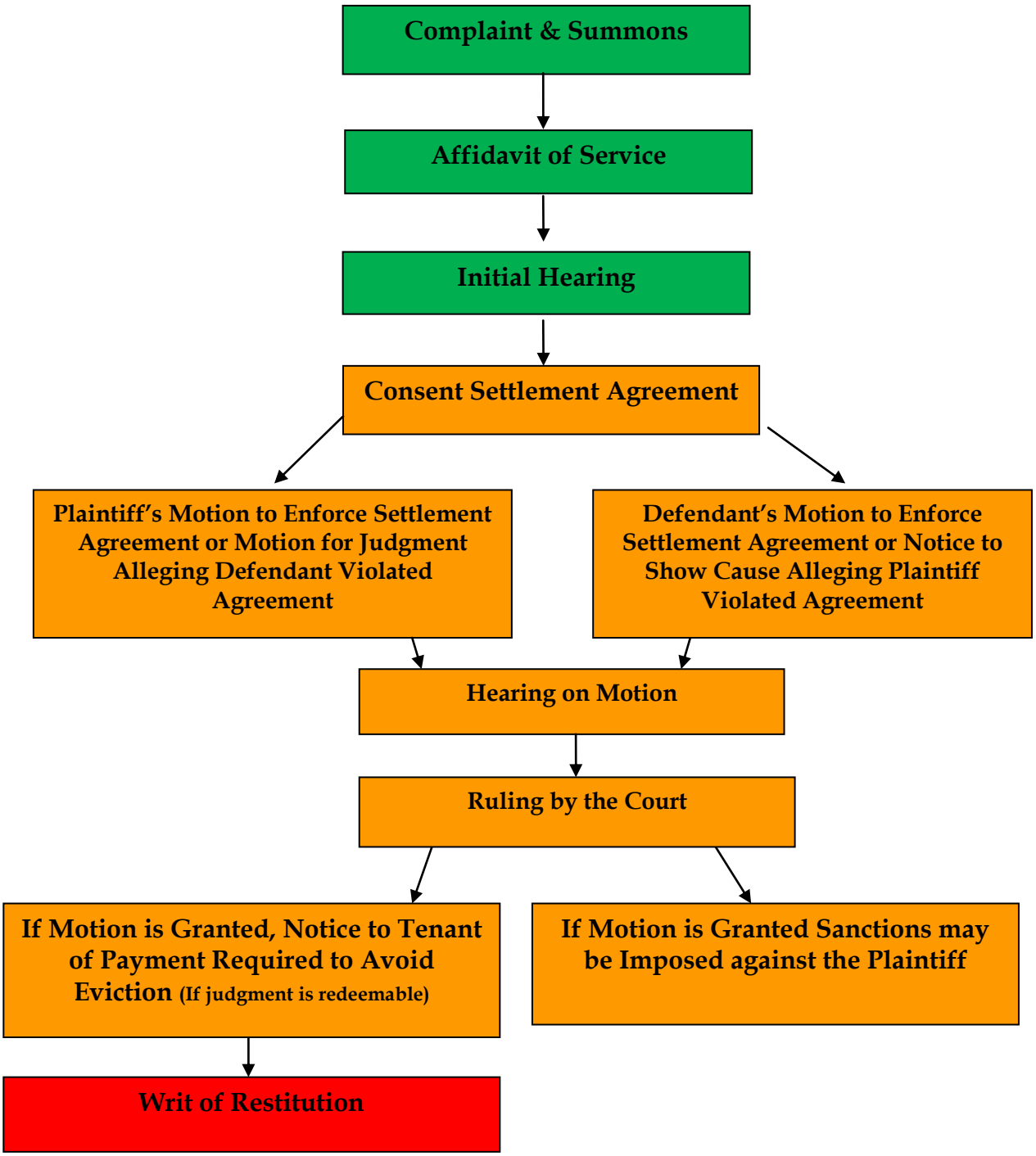
Entry of Settlement Agreements

Parties may use the Settlement Agreement form or draft their own settlement agreement, with or without the assistance of a court-appointed mediator. Settlement agreements do not need to be approved by the judge or the IJO, but they must be filed with the clerk. If the parties would like a judge or the IJO to approve the agreement, they should inform the clerk when filing the agreement.

Enforcement of Settlement Agreements

Either party may enforce a settlement agreement by filing a motion with the court. If a party's noncompliance with the agreement is in dispute, the court may take evidence to determine whether the party has breached the agreement and any defense for the party's noncompliance. The judge will make a finding and may enter an order and/or a judgment for possession.

Consent Settlement Agreement



Entry of Defaults and Default Judgments

Defaults Entered During Roll Call

A default will be entered against the defendant at roll call if the following conditions are met:

1. The plaintiff or the plaintiff's attorney is present;
2. Neither the defendant nor the defendant's representative is present;
3. There is no question as to the validity of service on the defendant; and
4. The complaint alleges facts sufficient, if true, to entitle the plaintiff to a judgment for possession of the premises

See L&T Rule 11(b).

If a default has been entered at roll call, the clerk will enter a judgment for possession only after the plaintiff files an affidavit in compliance with the Servicemembers Civil Relief Act. *See* L&T Rule 11(e) (2). This requirement is discussed in more detail in the section titled "Servicemembers Civil Relief Act."

Defaults Entered After Defendant Answers at Roll Call

If the defendant has answered at roll call and then fails to appear when the case is called a second time the same day or fails to appear for a hearing that is scheduled for another day, a default will be entered. The court may only enter a judgment if the plaintiff presents ex parte proof of liability and damages and files an affidavit in compliance with the Servicemembers Civil Relief Act. *See* L&T Rules 11(e) and 14.

Vacating Defaults

A default may be vacated by consent of all the parties or by filing a motion to vacate the entry of default. The tenant may speak to the landlord or landlord's attorney or a legal service provider If all parties consent to vacating a default, the case may be recalled in the courtroom to set a further hearing date.

Ex Parte Proof

Ex parte proof is required any time the defendant defaults after having entered an appearance, including when a default is entered on the day of trial, even if the defendant's only prior appearance before the court was answering his or her name at roll call. The plaintiff must present proof of both liability and damages at an ex parte proof hearing before a judgment may be entered. *See* L&T Rule 11(e). At an ex parte proof hearing, the plaintiff is expected to prove every allegation contained in the complaint. If the plaintiff presents satisfactory proof at the ex parte proof hearing, the judge will order that a judgment be entered upon the filing of an affidavit in compliance with the Servicemembers Civil Relief Act.

With the exception of drug haven cases, the presentation of ex parte proof is not required in cases in which defaults are entered at roll call, and the defendant has never made an appearance in the case. *See* L&T Rule 4, 11(e). Drug haven cases involve a housing accommodation where drugs are illegally stored, manufactured, used or

distributed. D.C. Code §42.3601 et seq. contains additional information regarding residential drug related evictions.

Servicemembers Civil Relief Act

The Servicemembers Civil Relief Act (2003), 50 U.S.C. App. § 501 et seq. provides that in any civil action or proceeding in which a default has been entered by the court the plaintiff is required to file an affidavit "stating whether or not the defendant is in the military service and [show] necessary facts to support the affidavit." A separate Servicemembers Affidavit Form CA114 must be filed for each defendant named in the complaint and against whom a default has been entered.

See instructions on how to complete Form CA114, Servicemembers Affidavit.

For a discussion of the specific requirements for the entry of money judgments by default, see the section "Money Judgment".

Entry of a Money Judgment

A money judgment may be entered:

1. By default;
2. At the conclusion of a trial or other hearing; or
3. By consent of the parties.

See L&T Rule 14. Unless the defendant consents to entry of a money judgment, the court may enter a money judgment only if the plaintiff's process server personally served the defendant with the complaint and summons or if the defendant has asserted a recoupment, setoff, or counterclaim. *See* L&T Rule 3.

When a money judgment is entered based upon the defendant's default, the amount of the judgment is limited to the amount requested in the complaint, even if additional rent has come due since the complaint was filed. *See* L&T Rule 14(c) (1). In order to obtain a money judgment by default, the plaintiff must appear before the judge after roll call and request the entry of a money judgment, or file a motion. *See* L&T Rule 11(f). A money judgment by default is not entered until the plaintiff has filed a Servicemembers affidavit indicating the defendant is not in the military service.

When a money judgment is entered based on a trial or other hearing, the judgment may be issued for the total amount proven. *See* L&T Rule 14(c) (2). The court may also enter a money judgment in favor of a defendant/counter-plaintiff for the total amount proven on a counterclaim.

A money judgment may not be entered as a sanction for the defendant's failure to pay a protective order. *See* L&T Rule 12-I.

Money judgments are automatically stayed for ten days, and no action may be taken to enforce the money judgment during that time. *See* L&T Rule 16(e). A money judgment may be enforced through writs of attachment, as in a civil action. *See* SCR-Civ. 69-I,

incorporated by L&T Rule 2. See the section "Collecting a Money Judgment," for more information.

Judgment for Possession after Trial

The court will enter a judgment for possession of the premises in favor of the prevailing party following a trial on the merits. D.C. CODE ANN. § 16-1503 (2001).

Redeemable v. Nonredeemable Judgments for Possession

Generally, in any case based on nonpayment of rent, the defendant is entitled to redeem the tenancy by paying the entire amount owed at any point before the eviction is completed and avoid an eviction. This is often called "Trans-lux," based on the case Trans-Lux Radio City Corp. v. Service Parking Corp., 54 A.2d 144 (D.C.1947). Generally a nonredeemable judgment is entered when the complaint is based on something other than nonpayment of rent or when a settlement agreement or consent judgment agreement specifies that the plaintiff is entitled to a nonredeemable judgment. If a nonredeemable judgment is entered, the tenant is not able to pay the amount owed and avoid an eviction.

Unless a judge specifically grants a nonredeemable judgment, every judgment is redeemable, and the plaintiff must file a notice to tenant of payment required to avoid eviction (Form 6), before filing a writ of restitution to evict the defendant. *See* L&T Rules 14-II and 16 (a).

Entry of a Nonredeemable Judgment

If a default is entered at roll call, the plaintiff can request the case be called after roll call for the entry of a nonredeemable judgment for possession. If a default is entered at any other hearing or time, the plaintiff can request the court enter a nonredeemable judgment at that time. In the alternative, a plaintiff can file a written motion for a nonredeemable judgment.

Redeemable Judgment

In any case where the court enters a redeemable judgment for possession in favor of the plaintiff, the court must inform the defendant of the amount of money the defendant can pay to avoid eviction. This amount is called the "redemption amount," "amount required to avoid eviction," or "Trans-lux amount."

If all parties are present when the judgment is entered, the court can set the redemption amount on the record. The clerk will give the defendant an "In Court Notice to Tenant of Payment Required to Avoid Eviction," which sets forth the amount due and explains the manner in which rent, late fees, and court costs will continue to accrue.

In any case in which the court does *not* set the redemption amount on the record in the presence of all of the parties, the plaintiff is required to file a "Notice to Tenant of Payment Required to Avoid Eviction" (L&T Form 6) which sets forth the current amount due and explains the manner in which rent, and court costs will continue to

accrue. *See* L&T Rule 14-II(c). This form is commonly referred to as a "Trans-lux Form" or "Form 6". The Form 6 must be filed within five days of the entry of a default or judgment or, if the judgment is stayed, within five days after the stay on the judgment is lifted. The clerk's office will not accept any redemption forms (L&T Form 6) with late fees. The clerk's office is responsible for mailing the Notice to Tenant of Payment Required to Avoid Eviction to the defendant.

A landlord who fails to file the Notice to Tenant timely must file an application seeking leave to file the notice late. The landlord must attach the proposed Notice to Tenant as well as an affidavit establishing excusable neglect or other good cause for allowing the Notice to Tenant to be filed late. *See* L&T Rule 14-II(d).

Redeeming the Tenancy

If a redeemable judgment has been entered against a defendant, the defendant may avoid eviction by paying the redemption amount at any time before the U. S. Marshals Service has completed the eviction. Payment must be made in full, directly to the plaintiff. The plaintiff is required to accept full payment as long as the eviction has not been completed. If the defendant waits until the U.S. Marshals Service arrives on site, the defendant can pay the plaintiff only by cash, cashier's check, or money order.

In order to avoid eviction, the defendant is required to pay only the amounts set by the court on the Notice to Tenant, which will increase over time as specified below. The plaintiff may seek additional fees through a separate court action.

The total amount the defendant must pay to avoid eviction will increase over time. Specifically:

1. Each month, on the dates indicated in the lease agreement, an additional month's rent, and late fees (if approved by the court) will be added to the total that must be paid to avoid eviction.
2. If the plaintiff files a writ of restitution after the redemption amount has been set, then a court cost of $10 and a U.S. Marshals Service Administrative Fee will be added to the amount the defendant must pay to the plaintiff to avoid eviction. The defendant is responsible for paying the additional amount directly to the plaintiff. (This additional payment is not required if the property is owned by the D.C. Housing Authority.)
3. If the U.S. Marshals Service arrives on the premises to evict the defendant, then the amount the defendant must pay the plaintiff to avoid eviction will increase by any additional execution fee assessed by the U.S. Marshals Service (over and above the amount described in #2). (This additional payment is not required if the property is owned by the D.C. Housing Authority.)

The fees assessed by the U.S. Marshals Service increase from time to time. The current amount will always be reflected on Form 6s and In-Court Notices to Tenant of Payment Required to Avoid Eviction issued by the court.

The plaintiff must pay both the U.S. Marshals Service administrative and execution fees in order to obtain a writ, but the execution fee is returned to the plaintiff if the writ is canceled, expired, or quashed and the plaintiff does not apply for an alias writ. The clerk's office can address any questions regarding writ fee refunds.

In the past, the court required the defendant to include the execution fee in the amount required to redeem the tenancy. However, L&T Rule 15 was amended in 2014. Based on the amended rule, the execution fee is included in the amount the defendant must pay to redeem the tenancy only if the defendant makes the payment when the U.S. Marshals Service has appeared on the premises to execute the writ.

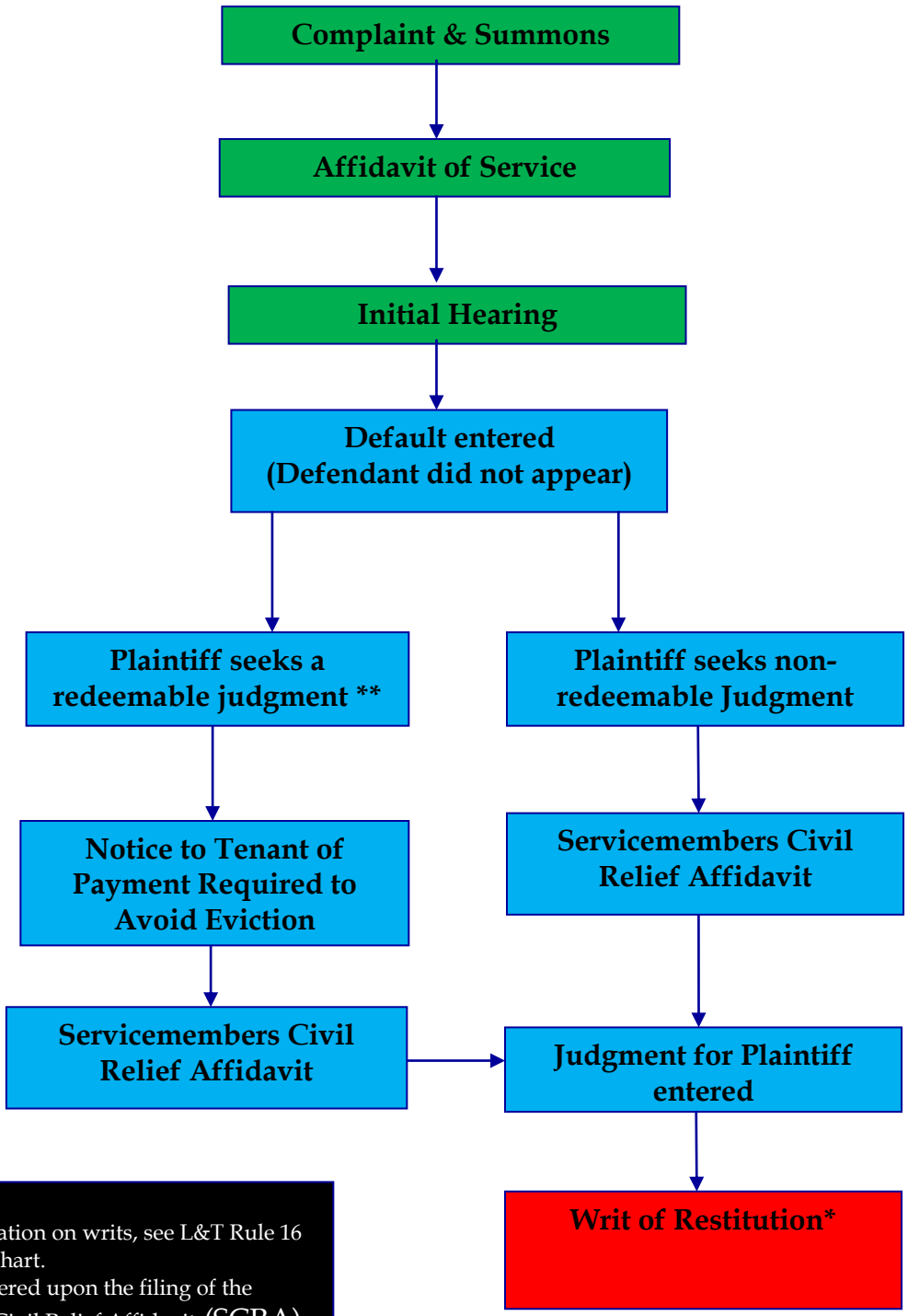
Challenging the Redemption Amount

A defendant may file an Application to Reduce Payment Required to Avoid Eviction if he or she believes that the amounts set forth on the Notice to Tenant are incorrect. *See* SCR-LT 14-II(e). An Application to Reduce Payment Required to Avoid Eviction is treated like a motion and will be set for hearing according to the rules for motions. However, if the application is filed along with an

Application to Stay Execution of Writ of Restitution, a judge may decide to hear the Application to Reduce Payment Required to Avoid Eviction at the same time as the

Application to Stay Execution of Writ of Restitution.

Landlord & Tenant Branch
Redeemable vs. Non-Redeemable Judgment via Default



Note:
*For more information on writs, see L&T Rule 16 (d) and separate chart.
**Judgment is entered upon the filing of the Servicemembers Civil Relief Affidavit (SCRA)

Award of Court Costs

Whenever the court awards a judgment, the prevailing party is entitled to an award of all taxable costs. *See* D.C. CODE ANN. § 16-1503 (2001) and L&T Rule 15(b).

Consistent with L&T Rules 4 and 15, a prevailing plaintiff is awarded the following costs, as a matter of course:

- $15 filing fee for the complaint
- $10 fee per defendant for service of process
- $2.00 notary fee
- Postage, if service is by posting

If the plaintiff files a writ, the plaintiff is also awarded the following costs:

- $10 filing fee for the writ
- U.S. Marshals Service Administrative fee for any original or alias writ.

If the U.S. Marshals Service appears on the premises to execute the writ, regardless of whether the writ is executed, the plaintiff is also awarded any other fee associated with any writ of restitution.

Execution of Judgments for Possession

After a judgment for possession is entered, a plaintiff must obtain a writ of restitution in order to lawfully evict the defendant. A writ of restitution is a document that authorizes the execution of a judgment for possession of real property, i.e., the eviction of the occupants of the property. A writ may not be issued until two days after the entry of judgment. Any writ of restitution, including an alias writ, is valid for 75 days. *See* L&T Rule 16(a).

Filing a Writ of Restitution

The plaintiff must fill out a writ of restitution form completely. The document consists of two parts, which are perforated and may be separated. The top part of the document is the writ of restitution, authorizing the U.S. Marshals Service to supervise the eviction of the defendant. The bottom portion of the document is a three-day notice, which informs the defendant that a writ of restitution has been issued in the case.

The address of the property to be repossessed that appears on the writ must be the same as the address that appears in the body of the complaint, including an apartment number, if applicable, and city quadrant. The plaintiff must also include a phone number on the top of the writ so that the U.S. Marshals Service can contact the plaintiff to schedule the eviction.

The clerk's office delivers the original writ to the U.S. Marshals Service on the day that the writ is filed. Plaintiffs filing up to 10 writs must file their writs in the clerk's office by 3:30 p.m. in order for the writs to be delivered to the U.S. Marshals Service the same

day. Plaintiffs filing 11 or more writs must file their writs in the clerk's office by 10:00 a.m. in order for the writs to be delivered to the U.S. Marshals Service the same day. Writs filed after the deadline may not be delivered until the next business day.

Writ Fees

The fees assessed by the U.S. Marshals Service increase from time to time. There are three costs associated with a writ of restitution:

1. The clerk's office assesses a $10 filing fee for any original or alias writ.
2. The U.S. Marshals Service charges an administrative fee for any original or alias writ.
3. The U.S. Marshals Service charges an execution fee, which must be paid at the time the writ is filed. The execution fee is assessed if the U.S. Marshals Service arrives on the premises to execute the eviction, regardless of whether the writ is executed. If the writ is canceled, expired or quashed before the U.S. Marshals Service arrives on the premises, then the execution fee is not assessed. The clerk's office returns the fee to the plaintiff if the plaintiff does not apply for an alias writ.

The court filing fee and U.S. Marshals Service administrative fee are awarded as court costs automatically. The additional U.S. Marshals Service execution fee is awarded as a court cost if the U.S. Marshals Service appears on the premises to execute the writ, regardless of whether the writ is executed.

Notice of Intent to Seek a Writ

A plaintiff seeking to file a writ of restitution after the first 90 days of the entry of default, entry of judgment, or lifting the stay on a judgment must seek leave of court to file a writ by filing a Notice to Tenant of plaintiff's Intention to Seek a Writ of Restitution, (L&T Form 2). *See* L&T Rule 16(d). The Landlord and Tenant Clerk's Office will schedule the hearing not earlier than the 10th calendar day after filing the Notice with the Clerk's Office.

United States Marshals Service Procedures

When the U.S. Marshals Service receives a writ from the clerk's office, the U.S. Marshals Service separates the top and the bottom parts of the document, keeping the top portion (the writ) and mailing the bottom portion (the three-day notice) to the defendant via first class mail. Both the three-day notice to the defendant and the writ reflect the 75-day period during which the writ is "live." A "live" writ is one that is capable of being executed.

The U.S. Marshals Service will contact the plaintiff to schedule a date to execute the writ, at least one business day before the proposed day for the eviction. The U.S. Marshals Service permits the landlord a maximum of three opportunities to arrange for the execution of the writ within the 75-day period.

There is a typical time period between the time the writ is issued and the time it is executed. During the summer months, it is usually one to three weeks. During the winter months, it is usually at least three to four weeks. In scheduling evictions, the U.S. Marshals Service gives priority to alias writs and writs that are about to expire.

If the plaintiff fails to schedule an eviction on one of the three scheduling opportunities, the writ will be canceled by the U.S. Marshals Service, and the plaintiff must file an alias writ. An alias writ is simply a new writ filed after the original writ expires or is quashed. An alias writ may be filed without leave of court within 90 days of the entry of default, entry of judgment or termination of the stay of execution on a judgment. L&T Rule 16(d). If leave of the court is required, the plaintiff must file a Notice to Tenant of Plaintiff's Intention to Seek a Writ of Restitution.

If the weather or the U.S. Marshals Service schedule does not permit execution within 75-days, the writ will expire, and the plaintiff must file an alias writ. Canceled and expired writs are returned to the clerk's office. The status of the writ (canceled, expired, or executed) is noted on the back of the document and in a docket entry.

Conducting the Eviction

If a judgment has been entered, the defendant cannot be evicted until the plaintiff files a writ of restitution and the U.S. Marshals Service arrives on the premises to supervise an eviction.

Other than the writ received in the mail, the defendant will not receive any additional notice from the court or the U.S. Marshals Service about when the eviction will occur. However, each afternoon, the U.S. Marshals Service provides the clerk's office with a list of addresses scheduled for eviction. The defendant may call the clerk's office to find out if their address is on the list.

Although the U.S. Marshals Service is responsible for scheduling evictions in consultation with the plaintiff, the plaintiff is fully responsible for the practical aspects of evicting a defendant, including the removal of the defendant's property from the unit and changing the locks. The U.S. Marshals Service does not remove the defendant's property, and its only role is to keep the peace during the eviction. The plaintiff or plaintiff's representative must be present during the eviction and must provide a crew—from 10-25 people, depending on the size of the property to be evicted—and any equipment, boxes, bags, etc. necessary to remove the defendant's property from the premises.

After the eviction is complete, the U.S. Marshals Service returns the writ to the clerk's office. On the back of the writ, the deputy marshal in charge of the eviction will note what occurred during the scheduled eviction – e.g., the writ was executed, or the eviction was canceled.

Note: Please refer to the U.S. Marshals Service for the most up to date procedural and eviction scheduling information.

Duplicate Writs

Any time a writ of restitution is stayed, the clerk's office contacts the U.S. Marshals Service to inform them that the writ has been stayed. The U.S. Marshals Service then returns the writ of restitution to the clerk's office. Once the stay has expired or is terminated by a judge, the plaintiff must contact the clerk's office and request the clerk's office send a "duplicate writ" to the U.S. Marshals Service. A duplicate writ is live for the same time period as the original writ, and no additional notice is sent to the defendant when a duplicate writ is issued. There is no fee associated with a duplicate writ.

Staying or Quashing a Writ

The Landlord and Tenant Rules allow for the entry of a stay of execution after a trial or other judgment on the merits when an appeal or certain post-trial motions are filed within three days after the entry of judgment. *See* L&T Rule 16(b).

When a redeemable judgment has been entered, and the defendant has redeemed the tenancy by paying the full amount owed, the plaintiff is no longer entitled to execute the judgment, and the judgment is permanently stayed. *See* L&T Rule 14-II(f). However, unless the writ is quashed by a judge on the record or the plaintiff files a praecipe quashing the writ, the clerk's office does not have notice that the judgment should be permanently stayed. Therefore, if the defendant has redeemed the tenancy, the plaintiff is responsible for ensuring that an eviction is not scheduled with the U.S. Marshals Service.

Application to Stay Execution of Writ of Restitution

A defendant may request a stay of execution of the writ of restitution by either oral or written motion. Unless the oral request for a stay is made when the parties are already before the court, the defendant must file an "Application to Stay Writ of Restitution." If a defendant files an Application for Stay of Execution of Writ of Restitution in the clerk's office before 2:00 p.m., the application to stay the writ will be heard by a judge that day. However, if the defendant is scheduled to be evicted the next day, the Application may be filed in the clerk's office any time before 4:00 p.m. and the application will be heard by a judge that day.

Before an application is heard by a judge, the plaintiff must be notified by the clerk's office, if the defendant is *pro se*, or by the defendant's attorney, if the defendant is represented by counsel. If the clerk's office notifies the plaintiff, the clerk will make a notation on the application regarding the plaintiff's position on the application and whether/when the plaintiff is available for a hearing.

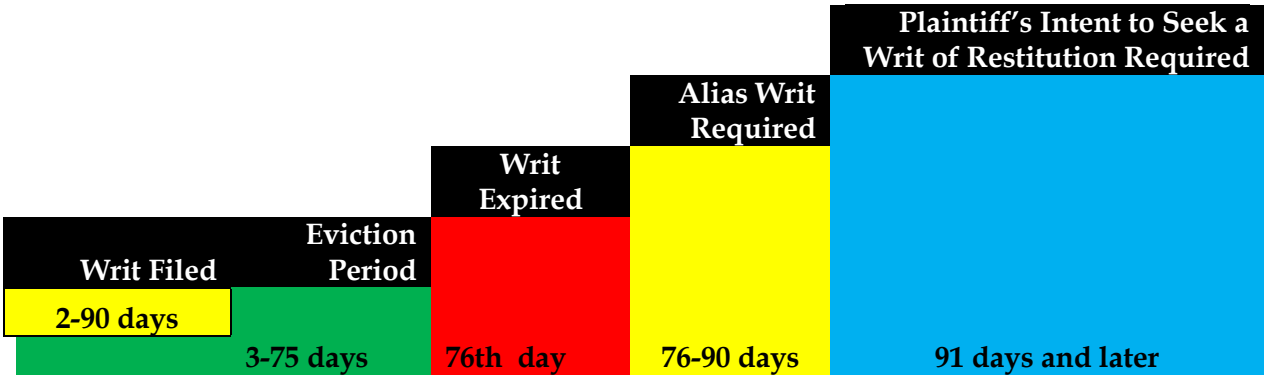
When the plaintiff is not available for a hearing but opposes the stay, or when the plaintiff cannot be reached, the judge may enter a stay for up to three business days to allow an opportunity for the plaintiff to participate in the hearing on the application. *See* L&T Rule 16.

Emergency Applications for Stay of Execution

Emergency Applications for Stay of Execution of Writ of Restitution are applications that are filed on the day the defendant is scheduled to be evicted. The U.S. Marshals Service will not stop an eviction unless a judge issues a stay; the eviction will take place even if the defendant is in court waiting for a hearing on the application. For this reason, emergency applications are called with absolute priority in the courtroom. It is important to note that the U.S. Marshals Service sometimes conducts evictions earlier than scheduled.

If the defendant files an emergency application, the court may address the application ex parte (without the presence of the plaintiff) and/or issue a brief stay in order to fully evaluate the defendant's application. If the judge orders a brief stay in order to hear the application fully, the eviction must be completely rescheduled. If the court grants an emergency stay of execution, the court will set a date for further hearing on the request. If the plaintiff was absent for the hearing, the clerk's office must notify the plaintiff by fax, mail, or telephone of the date set by the court. *See* L&T Rule 16(c)(iii).

Writ of Restitution Timeline



Refund of Writ Fees

In many instances, the plaintiff does not seek to schedule an eviction after a writ of restitution is filed because the defendant redeems the tenancy, or vacates the premises, or for other reasons. If the U.S. Marshals Service does not appear on the premises to conduct an eviction, then the U.S. Marshals Service generally does not charge the execution fee, and the court returns the fee to the plaintiff. The fee is returned approximately 90 days after the writ of restitution expires or is quashed, including any alias or reissued writ, or earlier if the plaintiff files a praecipe stating that the plaintiff will not be seeking re-issuance of the writ.

In some instances, the U.S. Marshals Service may appear on the premises to supervise an eviction that does not take place, for example, because the writ of restitution is quashed (cancelled) or stayed (postponed) before the eviction is concluded. In those situations, as well as in circumstances where the writ is executed, the U.S. Marshals Service does charge the execution fee, and that fee therefore is chargeable as a cost and not refundable.

Collecting a Money Judgment

It is the winning party's responsibility to pursue collection of a money judgment awarded by the court. The winning party may apply for a writ of attachment on a judgment against the opponent's wages and/or a writ of attachment other than wages. A writ of attachment is an order issued by the court that allows the winning party to attach the losing party's property and wages to pay the judgment. However, only one writ of attachment may be issued against a person's wages at a time.

If the losing party's bank account or other assets are not known, the winning party may request an oral examination to determine whether the party has any assets; and if so, the location of his or her assets. The winning party may also issue a writ of fieri facias

to obtain the sale of certain property of the losing party to collect the debt owed. However, the judgment must be filed and recorded with the Recorder of Deeds at 515 D Street, N.W., Washington, D.C., before a writ of fieri facias can be issued. Their telephone number is 202-727-5374 *See* D.C. Code § 16-525.

Dismissal for Failure to Prosecute

If the plaintiff or a representative of the plaintiff fails to answer during roll call, the clerk will dismiss the case for want of prosecution. *See* L&T Rule 11(c).

When a default is entered at the roll call the plaintiff must file an affidavit in compliance with the Servicemembers Civil Relief Act or request a hearing on ex parte proof, if *ex parte* proof is required, within 90 days. If the plaintiff fails to take action the clerk will dismiss the complaint without prejudice. *See* L&T Rule 14-I. The clerk will mail written notice of the dismissal to all parties. This rule applies to any complaint or counterclaim on which a default has been entered.

Appeals

The losing party may appeal any decision to the D.C. Court of Appeals. To begin the appeal, a Notice of Appeal must be filed in the L&T Clerk's Office. The notice of appeal must be filed within 30 days after the docketing date of the judgment order. The fee for filing a Notice of Appeal is $100.

District of Columbia Superior Court

CIVIL DIVISION

Civil Actions Branch

Case Management Plan

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Purpose

All cases filed in the Civil Division, Civil Actions Branch of the Superior Court of the District of Columbia are to be determined in a just, speedy and inexpensive manner in accordance with the Superior Court Rules of Civil Procedure. The purpose of this case management plan is to give parties a broad understanding of case management in the Civil Actions Branch within the scope of the rules. It details the actions the court takes to monitor and control the progress of a case, from initiation through final disposition, and to ensure prompt resolution consistent with the individual circumstances of the cases. This plan is not a substitute for the advice of a lawyer. The law can be very complicated, and it is not possible to address every situation in one document. Parties are strongly encouraged to talk to a lawyer to help protect their legal rights. The Superior Court Rules of Civil Procedure can be accessed on the court's website for more information.

Performance Measures

In 2005, the District of Columbia Courts' policy making body, the Joint Committee on Judicial Administration, adopted a set of nationally recognized measures to assess and report on the court's performance of timely and efficient resolution of cases. Performance measures address outcomes the court strives to achieve in order to deliver justice effectively and enhance accountability to the public.

Performance assessments allow the court leadership to monitor operational efficiency and assess how well the court is doing in achieving its goals. In order to assess the court's performance and monitor cases, the Age of Active Pending Caseload, Time to Disposition, and Trial Date Certainty performance reports have been adopted.

Age of Active Pending Caseload

The Age of Active Pending Caseload report measures the length of time a case is pending before the court from the date of filing to the time of measurement. This report is used in conjunction with the Time to Disposition report to monitor the caseload. Tracking these reports allows the court to monitor and focus attention on cases approaching the court's time standards. Excludable time, defined as periods of case inactivity beyond the court's control, is not included in the Age of Active Pending Caseload Report.

Time to Disposition

The Time to Disposition Report measures the number of cases disposed or resolved within the court's established timeframes. This report assesses the time it takes the court to process cases. It is used to observe trends and to assure the effective use of resources. Excludable time is not included in the Time to Disposition Report.

Excludable Time

The court has defined events that constitute excludable time for the Age of Active Pending Caseload and Time to Disposition reports. These are events that prevent movement of the case to disposition and are out of the court's control.

The excludable events for civil actions cases are:

- interlocutory appeal from stay entered to stay lifted
- bankruptcy stay entered to stay lifted
- military stay entered to stay lifted
- other stay that precludes any activity in case to stay lifted
- ancillary proceeding that precludes all other activity in case to resolution of ancillary proceeding
- qui tam cases during period of seal to seal lifted

Time to Disposition: Performance Standards

Case Type	Disposition Standard (98% disposed within)
Administrative Proceedings and Judge-in-Chambers	90 days
Landlord and Tenant Jury	270 days
Small Claims Jury	
Housing Conditions	365 days
Traffic Adjudication Appeals	
Libel of Information	14 months
Vehicle	18 months
Merit Personnel Act and Other Agency Appeals	
General Civil II Complaints	24 months
Collection and Subrogation Cases	30 months
Civil I Complaints	36 months
Title 47 Tax Lien Cases	

Trial Date Certainty

Trial Date Certainty measures the number of times cases disposed by trial were scheduled for trial. The report is used to assess whether cases were tried on the first date they were set or continued before they actually began. Setting credible trial dates encourages proper preparation by all parties, furthers the interests of litigants and the public in timely justice, helps to assure effective calendaring of cases and utilization of resources, and promotes high quality justice. The report also provides reasons for continuances to assess trends and monitor trial performance goals. The Civil Division's goal is to dispose of 85% of jury trial cases and 90% of bench trial cases within 2 trial settings.

Caseflow Management

Consistent intervention by the court ensures proper caseflow. For that reason, every open case must have a future hearing date. Consistent scheduling of events increases the level of judicial attention and case control necessary to achieve the court's performance goals. In order to achieve its performance goals the division has implemented case processing techniques to monitor and control the progress of cases through resolution. These techniques include:

- Early and continuous electronic caseload monitoring;
- Differentiated case management plans; and
- Alternative Dispute Resolution (ADR)

The Civil Division has implemented electronic caseload inventory reports that monitor on a monthly basis the division's clearance rates. Clearance rates are calculated as the number of outgoing cases as a percentage of the number of incoming cases. Clearance rates measure whether the court is processing its incoming caseload timely to minimize a backlog of cases. Other reports provide data for trials held, pending motions, matters taken under advisement and cases without a future event. These reports are monitored frequently by the judges and court administrators to manage and control caseflow and ensure accurate case activity reporting. The Civil Division is able to identify emerging areas of concerns and pinpoint areas for development by continuously monitoring caseloads.

The Division's differentiated case management (DCM) plan provides for the assignment of cases to "tracks" with deadlines for each action to be taken in a case through the pre-trial conference. A case is assigned to a specific "track" at the scheduling conference, the first hearing. The tracks are customized for specific case types with standardized time periods to exchange witness lists, complete discovery, file motions, complete ADR, and hold a pretrial/settlement conference before the judge. For instance, there are three tracks for Civil II cases, two tracks for Medical Malpractice cases and four tracks for Vehicle Accident cases. Landlord and tenant and small claims jury cases have a specific fast track. This plan encourages meaningful pretrial conferences before judges. Most trial dates are established only after pretrial conferences are held and all ADR efforts have been completed. This process assists judges with continuous case control and scheduling firm trial dates.

In addition to early judicial intervention, the division uses ADR methods such as mediation, arbitration, and case evaluation to attempt to resolve cases as early as possible through trained ADR professionals provided by the Multi-Door Dispute Resolution Division, most civil cases are resolved prior to trial through alternative dispute resolution. The method and schedule for ADR is selected at the scheduling conference.

Judicial Assignments

The Civil Division has 16 Associate Judges including a Presiding Judge and Deputy Presiding Judge, has four Magistrate Judges and uses a rotation of Senior Judges. The division employs an individual calendaring system and each Associate and/or Magistrate Judge is assigned to a specific calendar. Two judges are assigned to Civil 1 calendars, which include complex cases such as toxic mass torts and asbestos. Twelve Associate Judges are assigned to Civil II calendars and a rotation of Senior Judges are assigned to the 2nd Landlord and Tenant courtroom (B-53). A Magistrate Judge is assigned to the Landlord and Tenant courtroom on Mondays and Fridays and Associate Judges are assigned Tuesday, Wednesdays and Thursdays. Three Magistrate Judges are assigned to the Small Claims, Title 47 Tax Lien and Collections and Subrogation Calendars and assist with Mortgage Foreclosure cases. A written consent must be filed to have the case heard by a Magistrate Judge. If the parties do not consent to a Magistrate Judge, the case is assigned to an Associate Judge. The individual calendaring system randomly assigns cases to individual judges, according to the cause of action, when a case is filed to encourage resolution through early judicial attention and intervention.

Case Types in the Civil Actions Branch

The Civil Actions Branch is responsible for processing all civil cases requesting damages above $10,000 or equitable relief and cases that affect an interest in real property. Civil cases requesting equitable relief are those seeking a court order that either directs someone to do something (perform an action or prevents them from doing something. These types of actions are commonly known as seeking injunctive relief. Actions seeking damages that are $10,000 or less must be filed in the Small Claims and Conciliation Branch. The Landlord and Tenant Branch handles all actions for the possession of real property.

Each case that is accepted for filing is initiated in the case management database and assigned a case number. The case number is assigned automatically and identified by the cause of action (action code). Based upon the cause of action, each case is categorized into a case type and tracked for statistical purposes and performance standards.

The Civil Actions Branch processes the following case types:

Case Type	Case Description
CA1	JIC (1)
CA2	JIC (2)
CA3	JIC (3)
CAA	Civil I (A)
CAB	Civil II (B)
CAC	Collections/Insurance Granted (C)
CAD	Collections/Insurance Denied (D)
CAE	Eminent Domain (RP)
CAF	Foreign Judgment / Libel (F)
CAH	Housing Code Regulations (H)
CAL	Title 47 (RP)
CAM	Malpractice (M)
CAO	Other Administrative Reviews (O)
CAP	Merit Personnel Act (P)
CAR	Real Property (RP)
CAS	Structured Settlement (S)
CAT	Traffic Adjudication Appeals (T)

The housing code regulations cases (housing conditions calendar cases), collection and subrogation cases, Title 47 tax sale cases and mortgage foreclosure cases are distinct case types with special rules, processes and available legal resources. The differences for these case types are discussed as appropriate throughout the plan. To access civil action cases online, refer to the following link:
https://www.dccourts.gov/superior-court/cases-online

Cases Heard by Judge in Chambers (JIC)

Certain matters are heard by the Judge in Chambers after they are filed in the Civil Actions Branch. The Judge in Chambers office is responsible for handling emergency matters during the court's normal business hours that require expedited judicial decision making. The office is located in the Moultrie Courthouse, Room 4220. When filed on the same day of the complaint, the following matters must be heard by the Judge in Chambers:

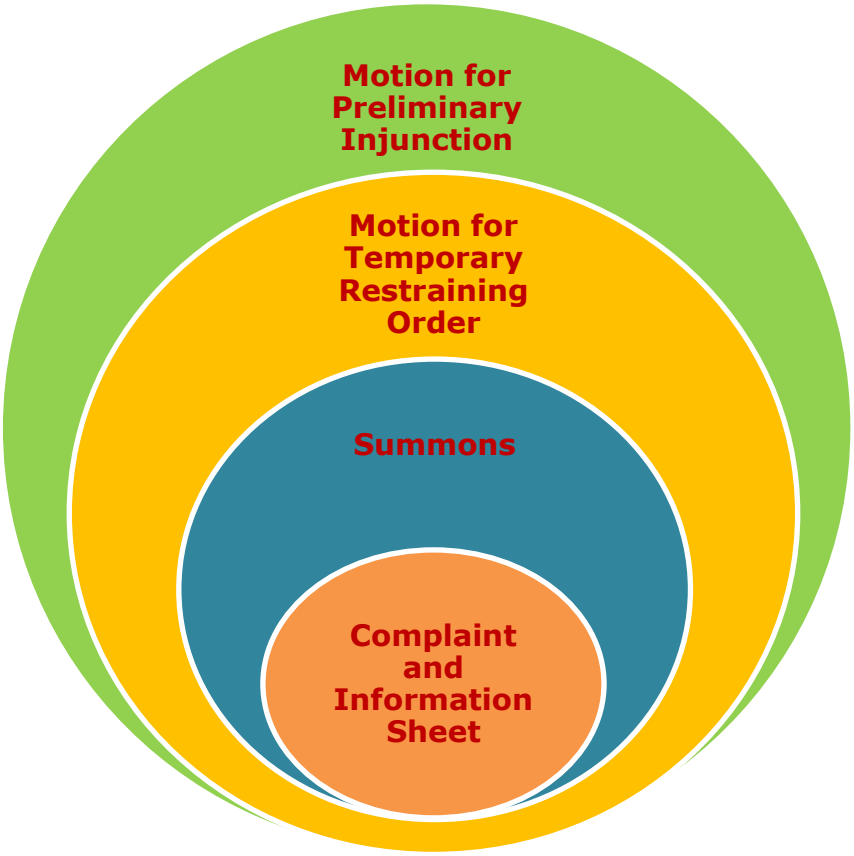
Appointment of a special process server	**Motions with respect to publication of notice requirements**	**Judicial approval of settlements involving minors**	**Motions to use pseudonyms in any pleading or paper filed in a case**
Applications to set bonds	**Applications for temporary restraining orders**	**Writs of attachment before judgment**	**Libel of information cases**
Motions regarding security for costs	**Writs of ne exeat**	**Motions for protective orders barring access to court documents**	**Writs of replevin**

Temporary Restraining Order

A temporary restraining order (TRO) is typically issued in circumstances requiring immediate action and orders short term relief. A TRO lasts approximately 14 days. A judge can order a party to do or not do something for that brief period of time, including staying away from and/or having no contact with the movant. If filed on the same day of the complaint, TROs are scheduled to be heard in Judge in Chambers. At the hearing on a TRO Motion, the moving party must show the judge that he or she provided notice to the other party. If the other party did not receive notice, or they do not appear at the hearing, the judge may continue the hearing or deny the TRO Motion. The parties should come prepared with any evidence or witness testimony that would support the request for a TRO.

Requests for injunctive relief that last longer than 14 days are called requests for a preliminary injunction (PI). Preliminary injunction hearings are heard by the Associate Judge assigned to the case. A status hearing on the preliminary injunction will be set by the clerk in the Judge in Chambers Office before the Associate Judge. A party may file a request for a TRO, a PI, or both.

A complaint must be filed in order to file a Motion for TRO or PI. It is not necessary to file a motion for both types of relief. Each request for relief -- 1) temporary restraining order, and 2) preliminary injunction – requires a fee of $20 each. In addition to the filing fee for the motion(s), the party must pay the $120.00 filing fee for the complaint.



Legal Assistance

An individual may file a complaint in the Civil Actions Branch on his or her own behalf without the assistance of an attorney. A person who is not an attorney may not file a case on behalf of another person or a business. Corporations and certain other businesses that are plaintiffs in cases must be represented by an attorney at all times, including when the complaint is filed.

If a person wishes to proceed without an attorney, the clerk's office can answer basic questions about how to fill out forms and give other general information. The clerk's office cannot give legal advice. Individuals are strongly encouraged to seek the advice of an attorney. The clerk's office is not allowed to answer questions about what to ask the court, whether someone can be sued for a particular reason, how likely it is that a case will be successful or any other issue that will affect legal rights.

The resources below are available to assist with certain civil actions matters. The resource center is coordinated by the D.C. Bar Pro Bono Center and is not staffed by court employees. They must be contacted directly for their hours of operations and procedures.

Legal Services for Self-Represented Parties

Consumer Law Resource Center	Free information for unrepresented consumers with consumer law matters governed by D.C. law, including Debt Collection, Home Improvement/ Independent Contractor Disputes, Security Deposit Refunds, Small Claims Cases, Used Car or Car Repair Disputes, Utility Disputes, and Violations of the Consumer Protection Procedures Act	Wednesdays 9:15 a.m. to 12:00 p.m. 510 4th St., NW, Building B Room 208 Washington, DC 20001
Consumer Law Court-Based Legal Services Project	Same day representation for eligible defendants in collections cases and foreclosure cases	Fridays Collections Cases: Courtroom B-52 Foreclosure Cases: Courtrooms 212 and 214
The D.C. Bar Pro Bono Center Free Legal Clinic	Free assistance with any civil legal problem governed by D.C. law or federal law including bankruptcy/debt collection, civil rights, consumer law, employment law, health law, housing law, personal & property damage, public benefits and tax law	2nd Sat. of month 10 a.m. - 12 p.m. at two locations: Bread for the City—Northwest Center, 1525 7th St. NW and, Bread for the City—Southeast Center, 1640 Good Hope Rd. SE.
The D.C. Bar Legal Information Help Line	Automated system of recorded messages giving basic information on more than 30 legal topics, finding an attorney, and the availability of free legal services in D.C.	202-626-3499 24 hours a day, seven days a week in Amharic, Chinese, English, French, Korean, Spanish, and Vietnamese

Clerk's Office Information

The Civil Actions Branch, Civil Actions Clerk's office is located at 500 Indiana Avenue, N.W., Washington, D.C., 20001, Moultrie Courthouse Building, Room 5000. The office is open weekdays from 8:30 a.m. to 5:00 p.m. and Saturdays from 9:00 a.m., to 12:00 p.m. (document filing only on Saturdays).

The Civil Actions Branch processes all filings submitted in person and electronically. Requests for default judgments and execution of post-trial judgments including writs of attachment are also processed by the Civil Actions Branch. Individuals who are not required to file electronically can file, and documents that are not accepted electronically can be filed, in the Civil Actions Clerk's Office. Documents can also be submitted through U.S. Postal mail and via the afterhours drop box located in the lobby of the Moultrie Courthouse.

The Quality Review Branch, also located in Room 5000, assists with monitoring and controlling the progression of cases by processing dismissals, entry of defaults, requests for ex parte proof hearings and notices of appeal. This branch schedules initial hearings, issues and reviews notices of hearings and issues service of process for litigants with prepayment of costs waived (*in forma pauperis* or "IFP"). This branch also manages the courtroom staff.

The Clerk's Office may be contacted via telephone, email, and internet chat line during normal business hours as follows:
Civil Actions Clerk's Office: (202) 879-1133
Information & Records Section: (202) 879-1968
Judgment Office: (202) 879-1140
Quality Review Branch: (202) 879-1750
Email Address: CivilDocket@dcsc.gov
The Civil Actions Branch live chat feature is available Monday through Friday from 8:30 a.m. –5:00 p.m. at: https://www.dccourts.gov/services/civil-matters.

Electronic Filing and Case Management System

The Civil Division has a paper on demand process. All parties are required to keep the original unaltered documents through the final resolution of all appeals. *See* Administrative Order 2014-11. Self-represented parties may file documents in paper in the Civil Actions Clerk's Office. The clerk will return the original documents once scanned into the case management system.

Documents filed by a member of the DC Bar must be submitted electronically via File and Serve. All filing fees are collected via CaseFileXpress. *See* Administrative Order 2015-03, Administrative Order 2006-07, and Administrative Order 2005-04). Law schools and legal services organizations that provide direct civil legal services to low-income and underserved litigants listed in Administrative Order 2007-14 are exempt from mandatory e-filing.

Although lawyers are required to file and serve documents electronically, self-represented litigants are not but may register to do so. Please see DC Superior Court E-filing for more e-filing services information through File & Serve Xpress. There are certain case-types that are exempted from electronic filing.

Filing Fees

Filing fees can be paid by cash, certified check, credit card (American Express, Discover, Visa or MasterCard), personal check or money order. The check should be made payable to: "Clerk, D.C. Superior Court" and must be presented in person with proper ID. All Filing Fees can be accessed on the internet.

Waiver of Court Costs

If a party is unable to pay court costs, fees, or security without substantial hardship, the court may waive the requirement to prepay court costs. *See* Super. Ct. Civ. R. 54-II. When the court waives prepayment of court costs, it is called "in forma pauperis," "IFP" or "without prepayment of costs." To request the court waive prepayment of court costs, an Application to Proceed Without Prepayment of Costs form must be filed.

A judge may approve the application with or without a hearing. When a request to

proceed without prepayment of costs is granted, the court is only responsible for serving the complaint, summons, initial order and all subpoenas on behalf of an in forma pauperis litigant. If IFP status is granted, it does not completely waive responsibility to pay court costs. A judge could order a person to pay the court costs at the end of the case.

Filing a Case

Forms are provided for use by litigants on the courts website at https://www.dccourts.gov/services/forms/forms-by-location?location=civilactions. For easy access, links have been provided throughout this document when referencing a form. All documents must be on white paper, size 8-1/2" x 11".

The plaintiff must submit a Complaint, Summons for each defendant and Information Sheet to file a case. The complaint must contain: 1) the grounds for the court's jurisdiction; 2) a short and plain statement of the claim showing that plaintiff is entitled to money or some action by the defendant; and 3) a demand for a judgment against the defendant. The complaint must include enough facts which show the plaintiff is entitled to the relief sought from the court.

The complaint and subsequent papers must include the plaintiff's full name, residence address, and unless the plaintiff is represented by counsel, the telephone number. *See* Super. Ct. Civ. R. 10-I. If a party is represented by counsel, all pleadings or other papers shall set forth the name, office address, telephone number, e-mail address, and bar number of the attorney.

The names, addresses, and telephone numbers provided will be conclusively deemed to be correct and current. The plaintiff's address must be included on the complaint form at the time of filing. If no address is included on the complaint, the clerk will not accept the complaint. The complaint must be signed by the plaintiff or plaintiff's attorney. The cost for filing a complaint is $120.00 except for a Housing Code Regulations Complaint which is $15.00. The clerk will review the complaint and if accepted, date, sign and assign a case number.

A summons is required for each defendant named in the complaint. The summons provides a deadline within which the defendant must file a response to the complaint and the possible consequences that may occur for failure to respond within the prescribed timeframe. The clerk will sign and seal each summons for issuance to the defendant(s). There is no fee for the initial summons filed for a defendant, the initial summonses to more than one address for a defendant or for service against the District of Columbia or the Mayor. If the plaintiff requests another summons to be served on the defendant after the initial summons, it is called an *alias summons*. The cost for an alias summons is $10.00 each.

The information sheet is a form that provides basic information including the parties' names, demand amount and nature of the case. It is an internal document that is used to

enter information into the case management system to initiate the case.

Housing Conditions Calendar Complaint

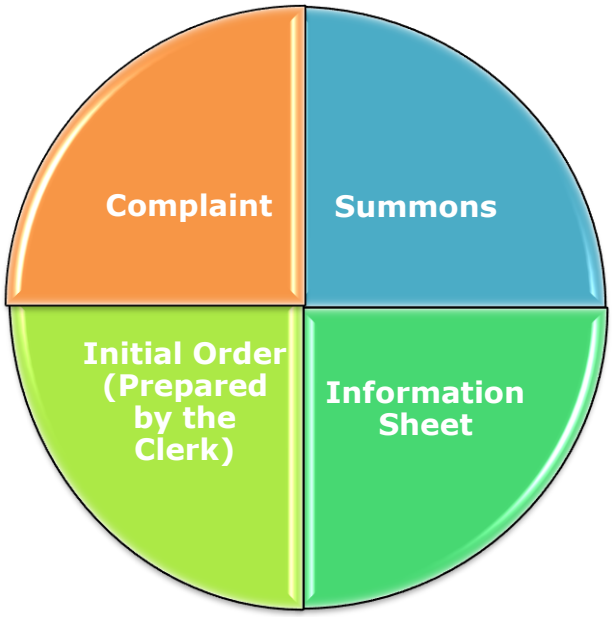
On the Housing Conditions Calendar, tenants may sue landlords for D.C. Housing Code violations on an expedited basis. The action is limited in nature and only available for those seeking to enforce compliance with D. C. Housing Code Regulations (14 D.M.R. §§ 500 - 900, 1200). A specific Housing Code complaint and summons must be completed by the plaintiff-tenant. The instructions on how to file a complaint and instructions for service are on the court's website.

Initial Order

After the case is processed and a judge is assigned, the clerk prepares an Initial Order that is attached to the original complaint. The Initial Order is a computer generated form that includes the following information:

- the deadline for the plaintiff to file proof of serving each defendant
- the deadline for the defendant to answer the complaint
- the name of the judge assigned to the case
- the number and location of the judge's courtroom
- the time and date of the initial scheduling conference

Components of the Complaint Package:



Serving the Defendant

The plaintiff will receive the file stamped complaint, executed summons, initial order and any attachments from the clerk and is responsible for serving each defendant with these documents. The plaintiff has 60 days to serve the complaint upon the defendant and file proof of service with the court. However, for collections and tax sales cases, the plaintiff has 180 days to serve the defendant and for housing conditions cases, the tenant is responsible for serving the landlord at least eight calendar days in advance of the hearing. Failure to file proof of service may result in the dismissal of the complaint.

A defendant can be served by a process server, certified or registered mail, or first-class mail.

Process Server

A competent person who is at least 18 years of age and not a party to the case (called a process server) can serve the defendant. The plaintiff does not have to hire a company to serve the papers, but if a process server is hired, the plaintiff is required to pay the costs. The process server must serve the documents directly to the defendant or to an adult residing at the defendant's home or usual place of abode, or to an agent authorized by appointment or law to receive service of process. *See* Super. Ct. Civ. R. 4 (e)(2). The plaintiff must file an Affidavit of Service by Special Process Server form providing information about the process server and when and how the defendant was served.

Registered or Certified Mail

The plaintiff may serve a defendant by mailing a copy of the complaint package by registered or certified mail, return receipt requested. If service is made by registered or certified mail, the plaintiff must attach the signed receipt to an affidavit that states the caption, case number, the name and address of the person who posted the registered or certified mailing, and the fact that the letter contained the summons, complaint, initial order, and any addendum or other order directed by the court. *See* Super. Ct. Civ. R. 4 (l)(1)(B).

First Class Mail

The third way to serve a defendant is by mailing a copy of the complaint package by first-class mail, postage prepaid, to the defendant. The filing party must also include two copies of a Notice and Acknowledgment of Service and a return envelope, postage prepaid, addressed to the plaintiff. *See* Super. Ct. Civ. R. 4(c)(5). The plaintiff is responsible for filing the acknowledgment form, which must contain the defendant's signature acknowledging receipt of the complaint package. If the defendant fails to acknowledge service, plaintiff may serve defendant by another method and ask the court for their costs of using another method. Super. Ct. Civ. R. 4(c)(5)(B).

Filing an Answer

The defendant usually has 21 days after being served with the complaint, summons and initial order to file an Answer or a Motion to Dismiss the Complaint. *See* Super. Ct. Civ. R. 12(a)(1). The District of Columbia, an officer or agency, or other government entity has 60 days to answer the complaint. The 21-day or 60-day period begins on the day the defendant is served with the summons. If the defendant does not specifically deny an allegation made in the complaint, the judge will treat the failure to deny as an admission of the allegation. *See* Super. Ct. Civ. R. 8 (b)(6).

The defendant must file his answer or motion to dismiss with the court and provide a copy to the plaintiff. If a defendant files a motion to dismiss, he or she does not have to file an answer unless the court denies the motion. If the court denies the motion, the defendant has 14 days to file an answer. *See* Super. Ct. Civ. R. 12 (a)(4).

Filing a Motion

To ask the court to issue an order or ruling, a Motion can be filed. The party filing a motion should try to find out whether the opposing party will consent to the relief sought. *See* Super. Ct. Civ. R. 12-I (a). If consent is obtained, the motion shall state "Consent" in the title. No response is required to a consent motion. All parties must be served with a copy of the motion and a courtesy copy must be provided to the judge. A certificate of service must be included with the motion that states the name and address of all of the parties to whom the motion was mailed and the date the motion was mailed. Copies of any order entered by the court will be docketed and mailed to the parties. The fee for filing a motion is $20.

Specific points and authorities and a proposed Order for the court's signature must be filed with the motion. The order should list all persons and their current addresses to which a copy of the order shall be sent.

Filing an Opposition

Within 14 days after service of the motion or at such other time as the court may direct, an opposing party may file and serve a statement of opposing points and authorities in opposition to the motion. If a statement of opposing points and authorities is not filed within the prescribed time, the court may treat the motion as conceded. *See* Super. Ct. Civ. R. 12-I (e). There is no fee to file an opposition.

Entry of Default

If the defendant does not file a response to the complaint or a motion for an extension of time to file a response within the 21-day or 60-day time period, the clerk will enter a default against the defendant. The default does not take effect until 14 days after its entry. *See* Super. Ct. Civ. R. 55 (a)(2).

The defendant can file a motion requesting to vacate the default. This motion must be accompanied by a verified answer setting forth any defenses to the complaint unless the parties have entered into a settlement agreement or consent judgment or the defendant is asserting lack of jurisdiction. *See* Super. Ct. Civ. R. 55 (c). The default can also be vacated by the clerk with consent of the parties. *See* Super. Ct. Civ. R. 55-III. The cost for the motion is $20.

Servicemembers Civil Relief Act

The Servicemembers Civil Relief Act 50 U.S.C. §§ 3901-4043 provides that in any civil action or proceeding in which a default has been entered by the court, the plaintiff must file an affidavit "stating whether or not the defendant is in the military service and [show] necessary facts to support the affidavit." In order to better comply with the requirements of the Servicemembers Civil Relief Act, the court has created an Affidavit in Compliance with the Servicemembers Civil Relief Act Form (CA 114). Super. Ct. Civ. R. 55 and 55-II require the use of Form CA 114 in all proceedings in the Civil Division in which a default has been entered.

A separate affidavit must be filed for each defendant named in the complaint and against whom a default has been entered. The search results required for the form must be conducted not more than 30 days before the filing of the affidavit. The instructions for filling out Form CA 114 are found on the court's website. *See* Super. Ct. Civ. R. 55

Default Judgment

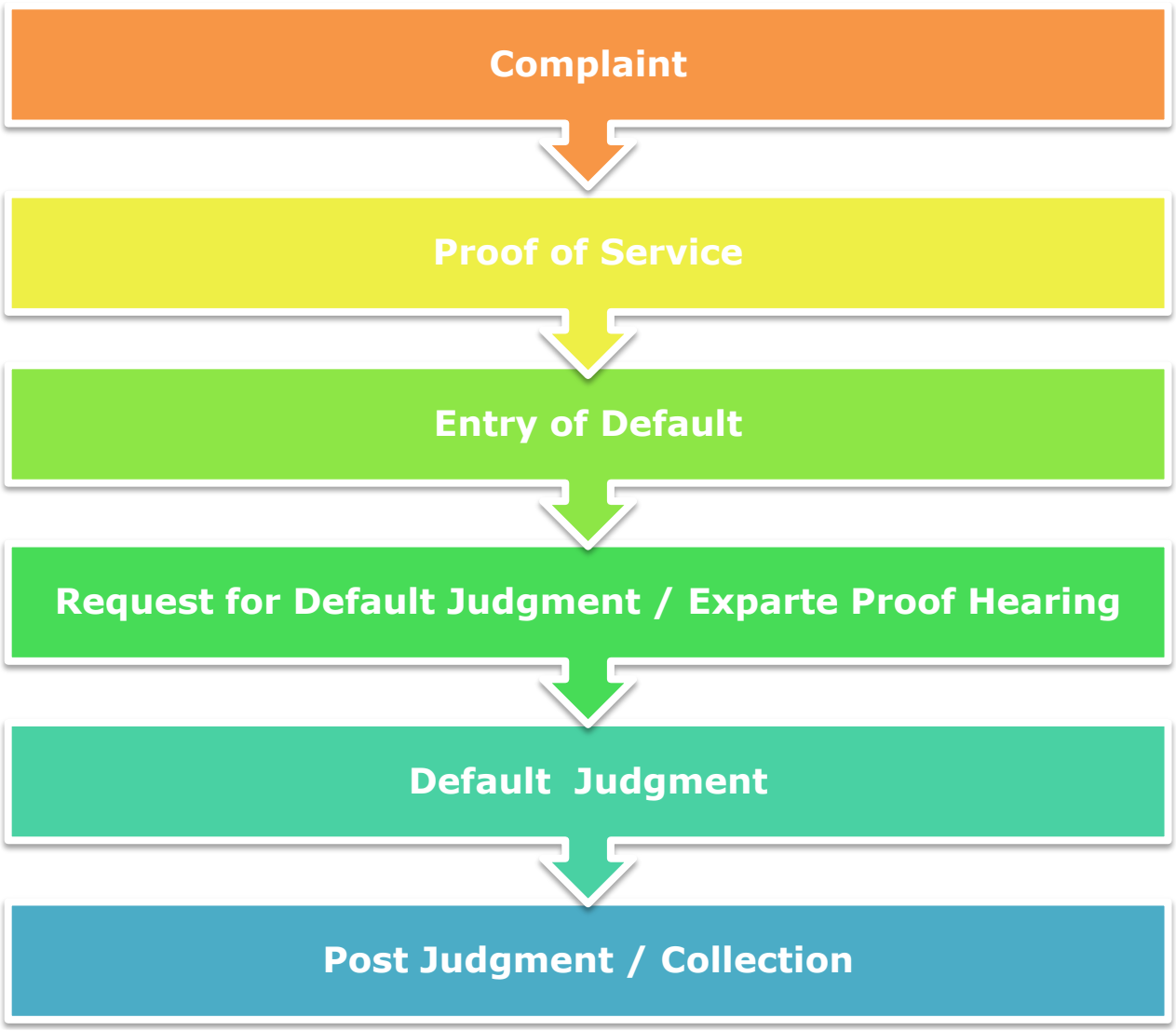
The plaintiff can request a default judgment from the clerk by filing a praecipe or declaration stating a specific amount in damages that is owed by the defendant. The clerk can enter the default judgment against a defendant if the plaintiff's claim is for a sum

certain or a sum which can by computation be made certain, and the plaintiff filed a verified complaint. The request for default judgment must be filed no sooner than 21 days after service of the verified complaint or affidavit required by Super. Ct. Civ. R. 55(b)(1) but not later than 60 days after the entry of default. In addition, the plaintiff must file a Servicemembers Civil Relief Act Affidavit verifying that the defaulting party is not in the military. The plaintiff can also file a motion requesting the court to issue a default judgment. *See* Super. Ct. Civ. R. 55 (b)(2).

Ex Parte Proof Hearing

After a default has been entered, the plaintiff could also request the court to hold an ex parte proof hearing, at which the plaintiff would have an opportunity to prove damages. The party seeking damages must bring proof of the damages. Even if the other side defaults, the defendant is entitled to notice of the hearing and a chance to challenge the plaintiff's evidence and to present evidence of their own. This hearing may also involve multiple witnesses and exhibits. *See* Super. Ct. Civ. R. 55-II. Ex parte proof hearings are set 14 days after the entry of default. It usually involves the plaintiff being present only. There are some instances when the defendant will appear at the hearing, and the defendant may ask the court to vacate the default. A default judgment gives the plaintiff the same rights as a judgment entered after a trial.

Default Judgment Process



Dismissal of Actions

A civil action can be dismissed by the parties at any stage of the case by either the plaintiff or by consent of the parties. *See* Super. Ct. Civ. R. 41. This is considered to be a voluntary dismissal. The plaintiff can dismiss an action by stipulation, subject to the provisions of Rules 23 (e),23.1 (c), 23.2 and 66 or any applicable statute, without a court order any time before service by the adverse party of an answer or of a motion for summary judgment. The parties can also dismiss an action by filing a stipulation of dismissal signed by all parties who have appeared in the action. *See* Super. Ct. Civ. R. 41 (a).

A civil action can be dismissed by the court for failure of the plaintiff to prosecute, or comply with the Rules or any order of court. *See* Super. Ct. Civ. R. 41 (b).

Initial Scheduling Conference

The first court hearing before the assigned judge is the initial scheduling conference. This event usually occurs within 90 to 120 days after the filing of the complaint. The date and time are indicated on the initial order, which is issued to the plaintiff when the complaint is filed. For collections and subrogation cases the initial scheduling conference is scheduled after the defendant's response to the complaint is filed and the clerk's office sends notice of the conference to the parties. *See* Super. Ct. Civ. R. 16.

The initial scheduling conference presents an opportunity for the parties to settle the case. A scheduling order is issued that sets a track for discovery, motions, ADR and pretrial conference deadlines. If the parties do not settle, the judge will select a form of ADR by which parties may resolve the case without going to trial.

No appearance from the attorneys is required for the scheduling conference if a praecipe conforming to the format of Civil Action Form 113 (Praecipe Requesting Scheduling Order) signed by all attorneys is filed. The praecipe must be filed no later than seven calendar days prior to the scheduling conference date. *See* Super. Ct. Civ. R. 16 (b)(2).

Due to the expedited process for housing conditions cases, the first court hearing is scheduled within a month after the complaint has been filed and in most instances within three weeks.

Scheduling Orders

A scheduling order is a court order designed to manage the flow of a case from the date it is entered through the beginning of a trial. It identifies the specific track on which the case has been placed based on the particular case type. This order may not be modified except by leave of court upon a showing of good cause. *See* Super. Ct. Civ. R. 16 (b)(3)-(7).

Scheduling Order Civil II Tracks

	Track 1	Track II	Track III
Exchange Lists of Fact Witness	30 Days	60 Days	90 Days
Proponent's Rule 26(a)(2)(B) Report	37 Days	67 Days	104 Days
Opponent's Rule 26(a)(2)(B) Report	51 Days	90 Days	140 Days
Discovery Requests	65 Days	104 Days	150 Days
Close of Discovery	95 Days	134 Days	180 Days
Filing Motions	125 Days	164 Days	210 Days
Dispositive Motions Decided	155 Days	194 Days	240 Days
ADR Mediation Case Evaluation	170-200 Days	209-239 Days	255-285 Days
Pre-Trial	230-260 Days	269-299 Days	315-345 Days

Scheduling Order Vehicle Tracks

	Track V1	Track V1 Fast	Track V2	Track V2 Fast
Exchange Lists of Fact Witnesses	30 Days	30 Days	60 Days	60 Days
Proponent's Rule 26(a)(2)(B) Report	37 Days	37 Days	67 Days	67 Days
Opponent's Rule 26 (a)(2)(B) Report	51 Days	51 Days	90 Days	90 Days
Discovery Requests	65 Days	65 Days	104 Days	104 Days
Close of Discovery	95 Days	95 Days	134 Days	134 Days
Filing Motions	125 Days		164 Days	
Dispositive Motions Decided	155 Days		194 Days	
ADR Mediation Case Evaluation	Approx. 15 Days from Disp. Mtn. Decided	Approx. 15 Days from Disc. Closed	Approx.15 Days from Disp. Mtn. Decided	Approx. 15 Days from Disc. Closed
Pre-Trial	30 Days from ADR Date	30 Days from ADR Date	30 Days from ADR Date	30 Days from ADR Date

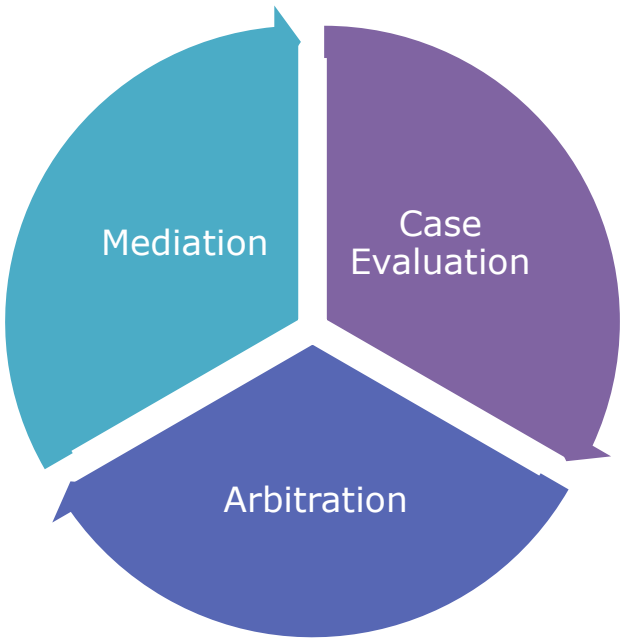
Scheduling Order Medical Malpractice Tracks

	Track M	Track MS
Exchange Lists of Fact Witnesses	90 Days	120 Days
Proponent's Rule 26(a)(2)(B) Report	105 Days	135 Days
Opponent's Rule 26(a)(2)(B) Report	140 Days	170 Days
Discovery Requests	180 Days	210 Days
Close of Discovery/Status Hearing	210 Days	240 Days
Filing Motions	240 Days	270 Days
Dispositive Motions Decided	300 Days	330 Days

Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution or "ADR" is the parties' opportunity to have a neutral person resolve the case in a way that is satisfactory to all parties and that does not involve the delays and burdens of a trial and possible appeal. The session is scheduled after discovery is complete and the judge has decided any motions that could resolve the case.

During the initial scheduling conference, the parties select one of three types of ADR. A specific date for the session will be scheduled by the judge at the initial scheduling conference or later by the Multi-Door Dispute Resolution Division.



Types of ADR

Mediation

In mediation, a neutral third party (the mediator) assists parties in a dispute by communicating their positions on issues and exploring possible solutions or settlements. The mediator has no decision-making authority and does not give a formal evaluation, but rather prompts the parties to assess their relative interests and positions and to evaluate their own cases by the exchange of information, ideas and alternatives for settlement. Cases may be settled at any point prior to mediation or before trial.

Case Evaluation

If the judge approves case evaluation, an experienced evaluator listens to informal presentations by the parties. The evaluator then discusses the strengths and weaknesses of each side's case. The evaluator provides the parties with a non-binding opinion as to the likelihood of success at trial and the fair settlement value of the case. The parties can discuss a settlement both before and after the evaluator gives the nonbinding evaluation.

Arbitration

If the judge approves arbitration as the method of ADR, the parties will choose the arbitrator and an alternate from a list provided in the courtroom. The parties also decide whether the arbitration will be binding or non-binding. The arbitrator schedules a hearing within 120 days of the scheduling conference. Each side gives an informal presentation of the case. The arbitrator rules on all motions as if the arbitrator were the judge in the case. After the hearing, the arbitrator issues a written award for one side or the other. If the parties select non-binding arbitration, and either party is dissatisfied with the award, the party not satisfied with the award can request a trial. In binding arbitration, the arbitrator's award becomes the final judgment.

For more information regarding Alternative Dispute Resolution, contact the Multi-Door Dispute Resolution Division at (202) 879-1549. Their office is located in Court Building C, 410 E Street, N.W., Washington, D.C., 20001.

Pretrial Conference

The judge holds a pretrial conference when a case is ready for trial and efforts to resolve it through ADR were not successful. If a pretrial conference date has not been selected and if the parties fail to reach a settlement at ADR, a date for the pretrial conference is selected at the ADR conference. In most cases, the pretrial conference is scheduled no sooner than 30 days after the completion of ADR. At the pretrial conference, the judge schedules the trial and issues an order setting the guidelines for the trial. Trials are usually scheduled 2-6 months after the pretrial conference.

The parties must meet four weeks prior to the pretrial conference to try to reach an agreement on important issues. *See* Super. Ct. Civ. R. 16 (c). At that time, each party must identify each of its trial witnesses, each document or photograph to be used at trial, and if it is a jury trial, each jury instruction to be given by the judge. Three weeks before the pretrial conference, each party must file and serve any motion related to the conduct of the

trial and deliver it to the judge. One week prior to the pretrial conference, the parties must file with the court and deliver to the assigned judge a joint pretrial statement which shall include a certification of the date and place of the meeting held and that explains, among other things, any objection each party has to the other party's proposed trial witnesses and exhibits.

At the pretrial conference, the judge may try to help the parties reach a settlement. Each party must attend in person. If a party is an organization, it must bring a person to the pretrial conference that has the authority to settle the case, or it has to get the judge's permission to have that person available by telephone. Super. Ct. Civ. R. 16 (j). Failure to attend the pretrial conference may result in the judge dismissing the case, entering a default, or imposing a fine. *See* Super. Ct. Civ. R. 16-II.

Trial

A trial date, in the majority of cases, is set during the Pretrial Conference. However, the Judge has the discretion to set a trial before the Pretrial Conference based on party and attorney availability. Generally, there are no more than two trial settings per case.

At the trial, each side has a chance to present evidence about its side of the story. The parties must be ready to present all the evidence that will convince a judge or a jury to decide in the party's favor. It is usually too late to present new information after the trial has ended.

At the trial, the plaintiff goes first because the plaintiff has the burden of proof. That means it is up to the plaintiff to prove his or her claim by a preponderance of the evidence. The plaintiff has to prove that it is more likely than not that his or her claim is true.

The defendant can question any witnesses the plaintiff calls. After the plaintiff presents his or her case, the defendant can call additional witnesses and present other evidence. The plaintiff has the right to question any witnesses the defendant calls.

After the defendant presents his or her case, the judge may give the plaintiff a chance to present evidence to disprove evidence that the defendant presented and that the plaintiff could not anticipate.

Entry of Judgment

Upon the conclusion of a jury or non jury trial or the granting of a motion that will dismiss the case, the court will enter judgment. After the entry of judgment, the prevailing party must wait 14 days before executing on the judgment. *See* Super. Ct. Civ. R. 62.

Collection of Judgment

It is the prevailing party's responsibility to pursue collection of the money judgment issued by the court. The prevailing party may apply for a Writ of Attachment on the judgment. A Writ of Attachment on wages is a form issued by the court that allows the prevailing party to obtain monies from the losing party's wages. A Writ of Attachment on Other Than Wages is a form issued by the court that allows the prevailing party to attach the losing party's bank account and other personal property. However, only one writ of attachment may be issued against a person's wages at a time. *See* Super. Ct. Civ. R. 69-I.

The prevailing party can also issue a Writ of Fieri Facias to obtain the sale of certain property of the defendant to collect the debt owed. However, the judgment must be filed and recorded with the Recorder of Deeds at 1101 4th Street, SW, 5th Floor, Washington, D.C., (202) 727-5374, before a Writ of Fieri Facias can be issued (D.C. Code § 16-525).

The Judgment Interest Rate Schedule is available to assist with calculating the interest amount for the judgment.

Oral Examination Hearing

If the prevailing party or judgment creditor is not aware of the losing party's assets including bank accounts or place of employment, an oral examination hearing may be requested to determine the whereabouts of the assets or place of employment. A hearing may be set at the request of the prevailing party after the entry of judgment or default judgment. A subpoena form is filed with the clerk to request an oral exam hearing. An oral exam hearing can be held formally on the record or informally off the record in the calendar judge's courtroom. The losing party or judgment debtor is sworn and deposed by the judgment creditor and/or the court in an effort to locate assets or employment information of the judgment debtor. The fee to request an oral exam is $20. The subpoena form (pro se) and subpoena form (for attorneys) can be found on the court's website.

Notice of Appeal

Either the plaintiff or the defendant may appeal certain decisions to the D.C. Court of Appeals. To begin the appeal process, a Notice of Appeal must be filed in the Civil Actions Branch Clerk's Office (Room 5000), Moultrie Courthouse. If the party is appealing an associate or senior judge's decision, the notice must be filed within 30 days after the docketing date of the judgment order. The fee for a notice of appeal is $100.00. *See* D.C. Ct. App. R. 4 (a).

If the party wants to appeal a magistrate judge's decision, a motion for judicial review must be filed within 14 days of the entry of the magistrate judge's order or judgment. Super. Ct. Civ. R. 73.

Notice of Removal

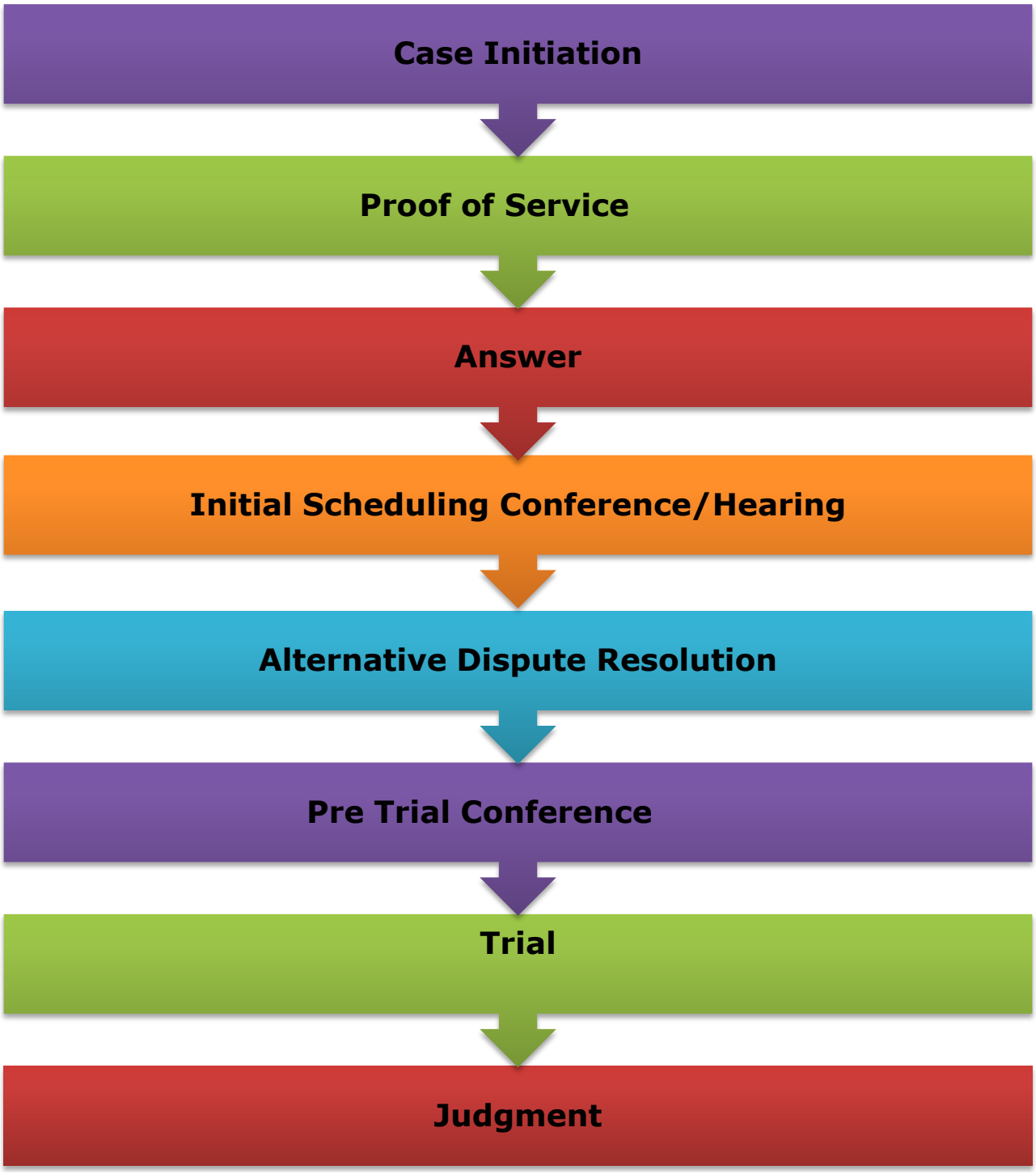
A notice of removal is filed in an action by the defendant only. The defendant can remove an action from the jurisdiction of the Superior Court of the District of Columbia to the

jurisdiction of the United States District Court based upon the alleged facts stated in the complaint. The party filing the notice of removal is responsible for sending notice to the other parties. Upon the filing of a notice of removal, the clerk will transfer the action to the United States District Court without approval of the court. The civil actions matter will be closed based upon the filing of the notice of removal. *See* 28 U.S.C. §§1441-1446.

Remand

If a case is remanded back to the jurisdiction of the Superior Court of the District of Columbia after a removal or appeal, it is reopened and assigned to the Presiding Judge for review and assignment to a calendar judge. The action will retain the original case number that was assigned prior to the removal.

Civil Actions Case Flow



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 16-09

Mental Health Community Court (MHCC) Case Management Plan

WHEREAS, the 2013-2017 Strategic Plan of the District of Columbia Courts, *Open to All, Trusted by all, Justice for All,* seeks to promote timely case resolution by implementing performance standards, case management plans, and other best practices; and

WHEREAS, performance standards for all Superior Court operating divisions were adopted in 2009 and revised in 2012; and

WHEREAS, a case management plan serves as a management tool to promote achievement of performance standards; and

WHEREAS, consistent with the mission of the Criminal Division as defined by the District of Columbia Code and the Criminal Rules of the Superior Court of the District of Columbia the Court has developed a Case Management Plan for the Mental Health Community Court;

NOW, THEREFORE, it is, by the Court,

ORDERED, that the case management plan for the Mental Health Community Court, which is attached hereto, is effective June 1, 2016; and it is further

ORDERED, that this order shall remain in effect until further order of the Court.

SO ORDERED.

DATE:

Lee F. Satterfield
Chief Judge

Copies to:

All Judicial Officers
Executive Officer
Clerk of the Court
Division Directors
Librarian

District of Columbia Superior Court
Mental Health Community Court (MHCC)
Case Management Plan

Purpose:

The DC Superior Court Mental Health Community Court (MHCC) is a voluntary treatment court for people who have been diagnosed with serious and persistent mental illness, who are charged with certain misdemeanor or low-level felony offenses, and who otherwise qualify for the MCHH program. If you believe that you are eligible to have your case(s) transferred to the MHCC you can use the following information to help you understand how to get to MHCC and what will happen there once your case(s) is/are transferred to MHCC.

Location of the MHCC in the Moultrie Courthouse:

The DC Superior Court MHCC is located in Courtroom 211 on the 2nd floor of the Moultrie Courthouse. The Moultrie Courthouse is at 500 Indiana Avenue, N.W. (near the Judiciary Square Metro stop).

Filing Documents:

Pleadings, motions, and other documents may be filed in the Criminal Division Clerk's Office, 500 Indiana Avenue, N.W., Room 4000. The Clerk's Office is open from 8:30-5:30 p.m., Monday through Friday. In addition, there is a location for after-hours filing next to the Information Desk on the Indiana Level of the courthouse.

Getting an Attorney:

If you are charged with a criminal offense, you have a right to have an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you if you qualify under the guidelines established by the Court's Criminal Justice Act plan. If you feel that you are not able to pay for an attorney you should bring copies of your last two pay checks, or other proof of your employment status. This information will assist the Criminal Justice Act Office in determining if you are eligible to receive a court appointed attorney.

If you wish to hire your own attorney, you may do so. If you hire your own attorney, he/she must notify the court that he/she represents you by filing a notice of appearance with the court known as a "praecipe."

If you do not hire an attorney, there will be a stand-in attorney available in the courtroom on your arraignment date to give you legal advice for that hearing only.

What is Mental Health Community Court (MHCC)?

The MHCC is a specialized court that focuses on criminal defendants diagnosed with a serious and persistent mental illness, or with mental illness and co-occurring substance

abuse disorders. The MHCC was established in 2007 by Administrative Order No. 07-23.

Who is eligible for MHCC?

Your case may be transferred, or certified, to the MHCC from a US Misdemeanor Community Court criminal calendar or a felony 2 criminal calendar if the United States Attorney's Office (USAO) finds that you are eligible and offers you the opportunity to participate. You and your lawyer must then decide if it is in your best interest to participate in the program. As part of the program, you must be willing to participate in mental health treatment, and drug treatment if necessary.

1. You are eligible to have your case(s) transferred to the MHCC if you have the following charges:

    a. US misdemeanor offenses, for example, simple drug possession, low level drug distribution, possession of drug paraphernalia, threats to do bodily harm, sexual solicitation/prostitution, unlawful entry, simple assault, assaulting a police officer, illegal dumping, destruction of property under $200, and theft in the second degree.

    b. Certain non-violent felony offenses, for example, drug distribution, possession with intent to distribute, escape, bail reform act violation, receiving stolen property, unauthorized use of a vehicle, threats to do bodily harm, destruction of property, and first degree theft.

2. Other requirements for eligibility established by the USAO and the DC Pretrial Services Agency (PSA) are:

    a. The Office of the United States Attorney must approve your participation;

    b. PSA must screen and approve you for supervision by the Specialized Services Unit (SSU), which is responsible for pre-trial supervision of people with diagnosed mental illness;

    c. You must have a verified serious and persistent mental illness as defined in D.C. Code § 21-501;

    d. You must be connected to mental health treatment;

    e. You must receive drug testing and treatment, if necessary, at the direction of PSA;

    f. You must test negative for drugs, including marijuana;

    g. You must be "competent" to proceed, pursuant to D.C. Code § 24-531.01(1).

    h. You must enter a Deferred Prosecution Agreement (DPA), Deferred Sentencing Agreement (DSA), or in cases where there is a felony charge, an Amended Sentencing Agreement (ASA) as determined by the USAO.

Who might be Ineligible for MHCC?

Although the USAO and PSA decide who may be eligible for participation in MHCC on an individualized basis, the following may be reasons why you would not be approved:

1. You have pending domestic violence or dangerous and violent felony charges.
2. You have certain convictions in the past 10 years, or are currently on parole, probation or supervised release for any dangerous or violent felony charge.
3. You are in jail or prison.
4. You are unwilling to participate in mental health or substance use treatment.
5. You are incompetent to stand trial.
6. You are ineligible for SSU supervision.
7. You have previously had the benefit of going through MHCC.

If I am Accepted into MHCC, How Long Will the Program Last?

After your case is transferred to the MHCC, you must show the judge that you are linked to and actively engaged in receiving mental health services, you must test negative for drugs including marijuana and alcohol, and only then will you will be offered the opportunity to enter into a "diversion" agreement with the government. After you enter the agreement, you must do what it says and participate in the MHCC program for at least four months to get the promised benefit. You will be required to appear before the MHCC judge approximately every 30 days, or more often if the judge believes this will help you successfully complete the program.

What are the Benefits of Being in MHCC?

There are three types of "diversion" agreements that you may be offered: (1) a Deferred Prosecution Agreement (DPA), (2) a Deferred Sentencing Agreement (DSA) and (3) an Amended Sentencing Agreement (ASA). Conditions of the agreement may include staying connected to and fully participating in mental health and drug treatment, avoiding rearrest, being drug free, and reporting to your PSA worker.

If you enter into a DPA, you will not have to enter a guilty plea in order to participate, and if you successfully complete the program, your case(s) will be dismissed. If you enter into a DSA, you will have to enter a guilty plea to your charge(s), and then, if you satisfy all conditions of the agreement, your plea will be vacated and your case will be dismissed. If you enter an ASA, you must plead guilty to your felony charge, and if you satisfy all conditions of the agreement, your felony charge will be reduced to a lesser charge and you will be sentenced for the lesser charge.

In the case of a DSA or ASA, if you fail to satisfy the conditions of the agreement, the government will ask that your agreement be revoked and that your case proceed to sentencing. You will be sentenced by the MHCC judge. If you fail to satisfy the conditions of a DPA, your case will be returned to the calendar from which it originally was sent to MHCC, and you must then decide whether to enter a plea of guilty or to proceed to a trial.

What are the Steps I Must Follow if I Want to Enter the MHCC?

At your first appearance before a judge, the USAO and/or the Pretrial Services Agency (PSA) will say whether you are possibly eligible for the MHCC. Before the next scheduled court appearance in your case, you will need to provide a negative drug test and be screened by PSA for supervision by its Specialized Services Unit, which is responsible for pre-trial supervision of people with diagnosed mental illness. At the next scheduled court appearance, the USAO will inform you whether it is offering you the opportunity to enter the MHCC. At this time the USAO will inform you whether this offer is conditioned on your entering into a Deferred Prosecution Agreement (DPA), Deferred Sentencing Agreement (DSA) or Amended Sentencing Agreement (ASA). If you enter the MHCC, this will be an alternative to having a trial on your charges.

The USAO has the right to offer or not offer you the opportunity to enter the MHCC as a way of resolving your case, and makes its decision whether to offer the MHCC based on an individualized review of each case. The factors that may play a role in the USAO's consideration include your criminal history, the nature of your pending charge(s), whether you are on probation, supervised release or parole, and public safety concerns. To participate in the MHCC you may not be detained in jail, prison, or an inpatient treatment facility, although placement in a halfway house may be permitted in some situations.

If you are eligible to participate in MHCC, the Criminal Calendar judge will certify the case to MHCC following your release under PSA supervision and your connection to mental health services, usually through a Core Service Agency associated with DC Department of Behavioral Services. If you are entering into a DSA or an ASA, you will enter a guilty plea before the MHCC judge after your case is transferred to the MHCC. The pretrial release order will require that you maintain mental health services as directed by PSA and drug program placement (drug testing, assessment or treatment) as directed by PSA. If the case is certified to the MHCC, the first hearing date in the MHCC will be scheduled within 30 days.

MHCC Admission Hearing:

At the first hearing in the MHCC, called the "MHCC Admission Hearing," the judge will welcome you to the MHCC and explain how the MHCC works. You will be provided with the MHCC participant brochure.

The judge will ask you questions to make sure you understand that:

1. The MHCC will not be setting your case for trial and the judge will not be deciding your guilt or innocence of the charge(s);

2. The MHCC will assist you in getting access to, and the benefit of, mental health treatment, starting with getting you connected to mental health services, if you are not already linked to a mental health provider, and also help you address any substance use issue you may have;

3. If you achieve stability in mental health treatment in the community, and show that you are drug free, the USAO will be willing to treat the case(s) favorably in court;

4. Once you are linked to and actively engaged in receiving mental health services and test negative for drugs including marijuana and alcohol, you will be given the opportunity to enter into a DPA, DSA, or an ASA which will last at least four months, and if all conditions of the agreement are met, then you will get the benefit promised in your diversion agreement.

At the first hearing in the MHCC the judge will ask the USAO to state what type of diversion agreement – DPA, DSA or ASA – you are eligible for.

Sometimes the MHCC Judge may not admit you into the MHCC at the initial admission hearing. This may occur where, for example, PSA reports a question about your MHCC eligibility or if you have not been placed in the Pretrial Services Agency SSU yet, or if you seem uninterested in actually pursuing mental health treatment services or stopping drug use. In that circumstance, your case may be continued for a further admission hearing at which the judge will decide whether you will be admitted, and will check on the progress you have made towards qualifying to enter into a diversion agreement.

Admission Orientation:

After the admissions hearing, you will meet with the MHCC Coordinator, a licensed social worker and court employee. The Coordinator is located outside the courtroom and will provide you with an orientation to the program. The Coordinator will help you understand the requirements of the program and, if you do not understand, will explain them further. The Coordinator will also address any questions you or your lawyer have about the MHCC and will complete an intake form which collects some basic information about you. The information required for the Intake Form includes your name, date of birth, mental health provider, educational history, occupational history, family history, housing history, and substance use history. In addition, the Coordinator will inquire about whether you need assistance finding housing, a new mental health provider, health insurance, childcare, transportation assistance, and/or a referral for employment, educational or vocational rehabilitation services.

What Happens if Things do not Work Out in MHCC Before You Enter into a Diversion Agreement?

If you are unable to enter into a diversion agreement, or if the MHCC judge determines that you are not a good candidate for the MHCC, your case will be certified back to the Criminal Calendar to which your case was originally assigned. At that time you will probably be asked to decide if you want to proceed to trial or if you want to enter a guilty plea.

What Happens at Future Status Hearings?

The MHCC holds regular status hearings, usually every 30 days, or more frequently if the judge believes it will help you successfully complete the program. At a status hearing the focus will be on how you are progressing in qualifying for entry into a DPA or DSA, or if you already have entered into an agreement, monitoring your compliance with the agreement. The MHCC judge will receive a status report before each hearing from the Pretrial Services Officer supervising your compliance with the MHCC program. Your lawyer will be provided a copy of the report.

Entering a DPA, DSA or ASA:

1. **Deferred Prosecution Agreement ("DPA"):**

   A DPA is an agreement between you and the USAO. Once defense counsel has presented the agreement, signed by you, your lawyer and the prosecutor, the judge will make sure that your lawyer has had a chance to go over the agreement with you, will review the agreement with you to be sure you understand what it requires you to do, and will ask you questions so that the judge can determine that you are voluntarily agreeing to its terms.

   The terms of a typical DPA include, as the judge will explain:

   a. A DPA lasts at least four months;

   b. You must continue mental health treatment services, remain drug free (and drug test as PSA requires), continue reporting to SSU as scheduled, and must not be rearrested on any charge;

   c. You must abide by all other conditions, for example a stay away order or restitution requirement, or other condition depending on the case.

   d. If you comply fully with agreement, the case(s) will be dismissed at the end of the term stated in the agreement;

   e. On the other hand, if you violate the agreement, the USAO has the right to revoke the Agreement and pursue prosecution of your charge(s).

2. **Deferred Sentencing Agreement ("DSA"):**

A DSA is also an agreement between you and the USAO, but is different from a DPA because it requires you to enter a guilty plea to the offense you are charged with. Once defense counsel has presented the agreement, signed by you, your lawyer and the

prosecutor, the judge will inform you of the requirements of the DSA, which may be any or all of the conditions described above that are included in a DPA.

a. The Questions the Judge Will Ask: Pleas of guilty are governed by Superior Court Criminal Rule 11, although the judge will decide what specific questions he/she will ask of you when you are pleading guilty. The judge must determine that you are entering your guilty plea knowingly, intelligently and voluntarily. A list of the typical questions asked during a guilty plea is attached in Form A..

b. The Factual Proffer: As part of the plea, the court will ask the Assistant United States Attorney to state the facts describing what you did in committing the offense you are pleading to. After the AUSA has given this information to the judge, you will be asked to say whether what the AUSA has presented is true. If you deny the facts that show you committed the crime, the judge cannot accept a guilty plea.

c. The judge will inform you that if you complete all the terms of the agreement, at the end of four months your plea will be vacated and your case will be dismissed. The judge will inform you that if you violate the DSA, the USAO has the right to revoke the Agreement and have the case proceed straight to sentencing before the MHCC judge.

3. **Amended Sentencing Agreement ("ASA")**:

If you have a felony case that is transferred to MHCC, the USAO will likely offer you an Amended Sentencing Agreement (ASA). An ASA requires a person to plead guilty to the felony charge with the agreement that if you comply with the agreement for at least four months, the felony charge will be reduced to a misdemeanor charge and you will immediately be sentenced for the misdemeanor. At the time the Agreement is offered, the AUSA will identify both the felony you must plead to and the misdemeanor charge that your charge will be reduced to at the completion of the program. The judge will advise you that after successful completion of the terms of an ASA, you may receive a sentence of probation on the misdemeanor conviction, during which probation you would be under the supervision of the CSOSA Mental Health Unit. The judge will also advise you that if you violate your agreement, you will be sentenced for your felony charge.

Because an ASA requires a guilty plea to the charge, the judge will ask you questions in order to determine that you are entering your guilty plea knowingly, intelligently and voluntarily:

The USAO generally requires that, to be eligible for entry into an ASA, you be in substantial compliance with the rules of the MHCC within 60 days after the admission hearing. You can show compliance by demonstrating engagement with mental health treatment services, fulfilling any drug testing requirements or participation in drug treatment when required, weekly check-in with the Pretrial Services Agency, and avoiding re-arrest. If you are not in substantial compliance after 60 days the USAO may

not permit you to enter an ASA. If you are not in substantial compliance within 60 days of the admission hearing, the case may be certified back to the Felony 2 judge's calendar, and set for trial.

If after entering an ASA, you violate the agreement, the USAO may revoke it, and the MHCC judge would proceed to sentence you on the felony charge. As with any felony sentencing, the judge will order a Pre-Sentence Investigation Report (PSI), which requires that sentencing be scheduled eight weeks from the date of the revocation of the ASA. At the time of the revocation, the court will determine whether you will remain on release in the community until sentencing.

4. **After Entry of a DPA, DSA or ASA:**

After entry of a DPA, DSA, or ASA, the PSA representative in the MHCC courtroom will prepare a new release order stating the terms of the agreement and conditions you must follow for at least a four-month period. A "Diversion Review" hearing date will be scheduled approximately one month later. If the case does not include drug charges, and you have not tested positive for drugs recently, at this point the MHCC judge may allow you to reduce drug testing obligations to a random or "spot" testing requirement.

Drug Testing Requirements in MHCC:

If you have a drug related charge or have a recent prior history of a positive drug tests, you will be required to submit 3 consecutive weeks of negative drug tests before being permitted to enter an Agreement. If you miss a drug test without being excused, the MHCC will generally require that you restart the series of three consecutive tests. If you have no indication of drug abuse, a single "full screen" drug test (including marijuana and alcohol) will be required before you are permitted to enter into a DPA or DSA or ASA. If you later test positive for drugs on a spot test, the MHCC may reinstate weekly drug testing, and PSA may reevaluate the need for substance abuse treatment referrals.

Drug Treatment in MHCC:

If you are testing positive for illegal drugs, the judge will urge you to accept PSA's recommended treatment placement following an Addiction Severity Index Assessment (ASI). Participation in drug treatment is voluntary in MHCC. You will be allowed further time and additional status hearings to comply with drug treatment and to submit negative drug tests. In the event that you fail to do so, the MHCC judge may decide to discharge you from MHCC and certify the case(s) back to the original court calendar, for lack of progress on the MHCC. The length of time that a person will be permitted to attempt to make progress in treatment and to stop using illegal drugs is within the discretion of the judge. The judge will consider whether you are progressing and making efforts towards compliance, and whether your drug use has significantly impeded progress toward full mental health treatment engagement.

Graduation from MHCC:

Upon your completion of any DPA, DSA or ASA, that is, when it appears from the PSA case worker's report that you have substantially complied with the agreement you will be eligible to graduate from the program. Once PSA notifies the judge that you are eligible to graduate, the judge will ask the USAO its position. If the government agrees that you have satisfied the agreement, you will get the benefit stated in the agreement.

In the case of a misdemeanor DPA, the case will be dismissed. In the case of a DSA, the government will agree that the guilty plea may be withdrawn and then dismiss the case. In the case of an ASA, the government will permit the court to convert the felony charge to which you have pleaded guilty to a lesser charge, and then the court will proceed to sentencing on the lesser charge.

After this, the court will conduct a graduation ceremony in the courtroom. During the graduation, the judge will step down from the bench and congratulate you for successful completion of the program. You and your counsel are permitted to make comments at the graduation.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 15-12

Traffic and D.C. Misdemeanor Case Management Plan

WHEREAS, the 2013-2017 Strategic Plan of the District of Columbia Courts, *Open to All, Trusted by All, Justice for All,* seeks to promote timely case resolution by implementing performance standards, case management plans, and other best practices; and

WHEREAS, performance standards for all Superior Court operating divisions were adopted in 2009 and revised in 2012; and

WHEREAS, a case management plan serves as a management tool to promote achievement of performance standards; and

WHEREAS, consistent with the mission of the Criminal Division as defined by the District of Columbia Code and the Criminal Rules of the Superior Court of the District of Columbia, the Court has developed a case management plan for Traffic and District of Columbia Misdemeanor cases that are prosecuted by the Office of the Attorney General of the District of Columbia;

NOW, THEREFORE, it is, by the Court,

ORDERED, that the case management plan for Traffic and District of Columbia Misdemeanor cases, attached hereto, is effective July 6, 2015; and it is further

ORDERED, that this order shall remain in effect until further order of the Court.

SO ORDERED.

DATE: July 1, 2015

/s/
Lee F. Satterfield
Chief Judge

Copies to:

All Judges
Executive Officer
Clerk of the Court
Division Directors
Librarian

Traffic and D.C. Misdemeanor Case Management Plan

I. Purpose

People who have been charged with Traffic and D.C. Misdemeanor offenses and their attorneys can use the following information to help them understand what will happen when they appear in D.C. Superior Court.

II. Location of the Courthouse

The D.C. Superior Court is located at 500 Indiana Avenue, N.W. (near the Judiciary Square Metro stop).

III. Filing Documents

Pleadings, motions, and other documents may be filed in the Criminal Division Clerk's Office, 500 Indiana Avenue, N.W., Room 4000. The Clerk's Office is open from 8:30-5:30 p.m., Monday through Friday. In addition, there is a location for after-hours filing next to the Information Desk on the Indiana Level of the courthouse.

IV. Where to Report

The Traffic and D.C. Misdemeanor courtrooms are located on the Indiana Avenue level of the courthouse.

People who have court dates in Traffic and D.C. Misdemeanor cases must report to the following courtrooms, depending on the Police District in which they have been arrested:

D.C. Calendar 1 – Courtroom 120:

Police Districts 1D, 3D, 4D

D.C. Calendar 2 – Courtroom 115:

Police Districts 2D, 5D, 6D

D.C. Calendar 3 – Courtroom 116:

Police Districts 7D, U.S. Park Police, U.S. Capitol Police

V. Court Scheduling

To the greatest extent possible, the court will stagger scheduling during the day in an effort to reduce the waiting times for parties and attorneys. Certain types of hearings are specifically scheduled at set days and times.

A. Arraignments, Citation Release Returns and Other Non-Trial Events: These will be scheduled in each Traffic/D.C. Misdemeanor courtroom as follows:

Courtroom 115 – Tuesdays

Courtroom 116 – Wednesdays

Courtroom 120 – Thursdays

B. Arraignment times for Impaired Driving Offenses: 9 a.m.

C. Arraignment times for Other Traffic Offenses: 10 a.m.

D. Arraignment times for Non-Traffic (D.C. Misdemeanor) offenses: 11 a.m.

E. Times for other short matters: The court will schedule other short non-trial matters (i.e. diversion status hearings, probation reviews, or revocation hearings, certain status hearings) at 11:30 a.m. and at 2:00 p.m.

F. Trial Scheduling: Each Traffic and D.C. Misdemeanor courtroom will schedule trials according to the availability of the parties and the court. For cases in which operating without a valid permit is charged, scheduling may be limited to certain dates on which only trials of this offense are heard.

VI. Getting an Attorney

If you are charged with a Traffic or D.C. Misdemeanor offense, you have a right to have an attorney. If you cannot afford an attorney, the court will appoint an attorney to represent you if you qualify under the guidelines established by the court's Criminal Justice Act Plan. If you feel that you are not able to pay for an attorney you should bring copies of your last two pay checks, or other proof of your employment status. This information will assist staff in the Criminal Justice Act Office in determining if you are eligible to receive a court appointed attorney.

If you wish to hire your own attorney and can afford to do so, you may do so. If you hire your own attorney, he/she must notify the court that he/she represents you by filing a notice of appearance with the court known as a "praecipe."

If you do not hire an attorney, there will be a Duty Day attorney available in the courtroom on your citation date to give you legal advice for that hearing only.

VII. Charges Heard on the Traffic and D.C. Misdemeanor Calendars

The cases heard in the Traffic and D.C. Misdemeanor courtrooms are charges prosecuted by the Office of the Attorney General (OAG), rather than by the Office of the United States Attorney (USAO). There are two types of charges prosecuted by OAG: (1) criminal traffic offenses, and (2) D.C. Misdemeanors.

A. Criminal Traffic Offenses: Criminal traffic offenses include, but are not limited to: driving while intoxicated; driving with a suspended or revoked license; driving and having no valid permit to drive; speed in excess of 30 miles over the speed limit; reckless driving; and leaving after colliding. If you

are stopped, an officer is permitted by law to arrest you if he/she has probable cause to believe you have committed one of these offenses.

There are other traffic violations (including moving violations) that are considered civil infractions for which you may not be arrested. If you are stopped by an officer for these infractions, the officer may issue a ticket, or Notice of Infraction, which will include information on how to pay the established fine or to contest the ticket. These matters are handled by the Department of Motor Vehicles, not by the D.C. Superior Court.

B. D.C. Misdemeanors: D.C. Misdemeanors are non-traffic related offenses including, but not limited to: possession of an unregistered firearm; unlawful possession of ammunition; drinking in public; disorderly conduct; and possession of an open container of alcohol in public.

VIII. The Judge Who Will Hear Your Case

Traffic and D.C. Misdemeanor cases are assigned to three different Magistrate Judges based upon where you are arrested, or in some cases based upon what police agency you are arrested by. The assigned Magistrate Judge will generally handle your case from the first appearance in court to the final disposition of your case. However, by statute you must give written consent to enter a plea or schedule a trial before a Magistrate Judge. The consent form will generally be offered to you at the time you enter your plea or at the time that the case is scheduled for trial. Attached, as Form B, is a sample consent form.

Although there is little practical difference between entering a guilty plea or having a trial before a Magistrate Judge or an Associate Judge, one difference is that if you wish to appeal the decision of a Magistrate Judge you must first file a motion for review of the Magistrate Judge's decision and may not file a direct appeal with the D.C. Court of Appeals as you could after a trial with an Associate Judge. If you or the OAG do not consent to a plea or a trial by a Magistrate Judge, then your case will be randomly assigned to one of six Associate Judges handling US misdemeanor cases for plea or trial. If the charge is one for which you may demand a jury trial, and you demand a jury trial, your case will be randomly assigned to one of 8 Associate Judges handling Felony II cases for a status hearing.

IX. What Happens if You are Arrested for a Traffic or D.C. Misdemeanor Offense

A. Who has arrest power? There are many police agencies in the District of Columbia with arrest power. These include the Metropolitan Police Department, U.S. Park Police, U.S. Capitol Police, Federal Bureau of Investigation, U.S. Secret Service, and others.

B. In what circumstances can you be arrested? A police officer may arrest a person whom he/she has probable cause to believe committed an offense in his/her presence. In addition officers have the power to arrest a person for

whom there is an existing arrest warrant for alleged violations of the law or for failure to appear at a scheduled court hearing.

C. If you are arrested, will you be taken into custody? If you are arrested on a Traffic or D.C. Misdemeanor charge:

1. You may be taken into custody. If so, the arresting officer will take you to the appropriate police district station to process the arrest. Processing the arrest will generally include filling out reports describing the reason for arrest, and getting identifying information about you. To identify you, the officer may ask for legal identification or may fingerprint you.

2. The officer may decide not to take you into custody and instead issue a Field Arrest Form. If you are released by the officer with a Field Arrest Form, the form will tell you to appear within two weeks at the police district station in the Police District in which you were arrested. When you appear at the station, you must choose either to post and forfeit or contest the charges in court.

   i."Post and Forfeit" means you must pay the established fine and the case will be over. The Post and Forfeit option is available for many D.C. Misdemeanor charges and for a limited number of criminal traffic charges. For a complete list of post and forfeit charges and the associated fine, you can go to www.dccourts.gov/internet/legal/aud_criminal/criminalforms. The list should also be available at all police stations. If you elect to post and forfeit you may in the future request a chance to come to court to contest the charge. In order to contest the charge after you have elected to post and forfeit you need to file in court a motion to set aside a forfeiture, within 90 days of the decision to post and forfeit and serve a copy of the motion on the OAG. A sample copy of a motion to set aside a forfeiture is attached as Form E.

   ii. Contest the charges in Superior Court. If you choose to contest the charges in court, you will be given a citation release form with a date on which you must appear in court. If you fail to appear on that date a bench warrant may be issued for your immediate arrest and the OAG may decide to file additional criminal charges against you for your failure to appear.

D. If You Are Taken Into Custody

Once at the Police District station, you may be allowed to "Post and Forfeit," you may be given "Citation Release," you may be allowed to post bond or you may be detained and held in jail until you go before a judge at D.C. Superior Court.

1. Post and Forfeit: See IX(C)(2)(i) above

2. Citation Release: If you are given "Citation Release," an officer will complete a form that will say when and where to appear in court. Your date to appear will be approximately 21 days after your arrest. If you fail to appear on your "citation date," a bench warrant may be issued for your immediate arrest and the OAG may decide to file additional criminal charges against you for your failure to appear. Citation release may be denied if you cannot provide any positive identification, if you appear not to understand the nature and obligations of citation release (i.e. if you are intoxicated or impaired, or appear unable to understand the requirement to appear), if you do not cooperate in the booking process, or for other reasons. In addition, an officer may impose conditions of release (i.e. stay away from a person or a place) pending your first appearance in court. If you violate that order you may be immediately arrested or you may be held pending your arraignment. Attached as Form A is a Citation Release Form.

3. Detention/Jail: You may be detained overnight and brought to court on the next business day to appear before a judge for your arraignment. The D.C. Superior Court is open for arraignments Monday through Saturday, including holidays.

X. What Happens Before Your First Court Appearance?

A. Papering/No Papering: Before your first appearance in court, the OAG will review the paperwork and other information concerning your arrest and make a decision whether charges will be filed. This is commonly called "papering" the case. In some instances the OAG will decide that no charges will be filed in court and the case will be "no papered."

B. Deferred Prosecution: In some cases, the OAG may decide to offer you a Deferred Prosecution instead of filing charges. A Deferred Prosecution is an agreement by the government that the government will not file criminal charges arising from the arrest as long as you are not arrested again for a specified period of time. Under a Deferred Prosecution, the OAG reserves the right to file criminal charges in the future if you are arrested again within the specified period of time. If you are arrested again, the OAG may file charges for both the first arrest and additional charges for the second arrest.

C. If you have been given Citation Release: Sometime before your court date the OAG will make a decision about whether to file charges (to "paper" the case).

XI. Changing Your Citation Date

You should adjust your schedule so that you can appear on the citation date established by the police agency at the time of your release. However, in rare circumstance you may have other obligations that cannot be rescheduled. If you need

to request another citation date you must file a motion to change arraignment with the court and with the OAG.

XII. What Happens at Your First Court Hearing?

Your first court hearing before a judge is called your "arraignment date" or your "citation date."

A. Right to Counsel: You have a right to be represented by a lawyer at this hearing. If you cannot afford a lawyer, a lawyer will be appointed to represent you. If you would like the opportunity to hire your own lawyer, there will be "Day Duty" lawyers in the courtroom to represent you at this hearing only.

B. Notice of the Charges: The judge or the courtroom clerk will tell you what charges the OAG has filed against you, advise you of your rights under the United States Constitution and give you a copy of the written charges.

C. Initial Plea: At your first court hearing, you will be given an opportunity to enter a plea of not guilty or guilty. You have a right to plead not guilty and ask the judge to schedule a trial at which the government would have to present proof beyond a reasonable doubt that you committed the charged offense. You will be able to change your plea from not guilty to guilty at later hearings if you decide you want to accept a plea offer or admit to the allegations.

D. Setting of Trial Tracks: If on your arraignment date you have entered a plea of not guilty, the OAG will provide written information and documents that give you and your lawyer notice of the charge against you and a summary of the facts that are the basis for the charge. This is called a "discovery" package. The OAG also may make a plea offer or an offer of diversion. The judge will also decide, with input from the OAG and your defense attorney, whether the trial will be a complex trial or a non-complex trial and schedule future dates accordingly.

E. Setting of Release Conditions: If you are released by the judge to return for a future hearing, the judge may order that you follow certain conditions of release the judge believes are necessary to protect the safety of the community or assure your return to court. For example, the judge may order that you not drive without a valid permit, or that you stay away from a certain location, or not consume alcohol, or report to the Pretrial Services Agency (PSA) for appropriate supervision while your case is pending. If you violate a condition of release **you may be arrested again and** charged with a new crime for violating the condition of release.

F. Notice to Return to Court: At the end of your hearing, the judge will give you notice to return for your next court date and will warn you that if you fail to return as ordered, the judge may issue a warrant for your arrest.

XIII. When Do You Have a Right to a Jury Trial?

In the District of Columbia you have a right to a trial by jury for any charge that carries a maximum penalty of more than 180 days. For most Traffic and D.C. Misdemeanor charges, the maximum penalty is 180 days or less. In some cases you may be charged with a repeat offense that may increase the maximum penalty and make you eligible to demand a jury trial. If you have the right to a jury trial and demand one, the court will randomly assign your case to one of 8 judges handling Felony II calendar matters. That calendar judge will become responsible for setting any future court dates and the trial date.

XIV. What Happens at Future Court Hearings In Your Case if it Remains on the Traffic and D.C. Misdemeanor Calendar?

After your first appearance before the judge, future hearings will be scheduled depending on whether the OAG makes a plea offer to you, or offers you a "diversion program," or whether you decide you would like a trial on your charges.

A. The Status Date: If you do not resolve your case on the first date the court will set a status date. The purpose of the status hearing is to allow you and your lawyer to review discovery, to consider any plea or diversion offer and to make a decision whether you will request a trial. At the status hearing the judge will address any discovery or other issues that need to be heard. In order to make the status hearing a meaningful date your attorney should be prepared to respond to plea or other offers and to address any outstanding discovery issues that must be resolved before proceeding to trial. If there are other issues that need to be addressed prior to trial the court may set another status hearing date prior to the scheduled trial date to address the issues.

B. Offer of Diversion Programs: At or after your first court appearance, the OAG may decide to offer you the option of entering a program in which you may resolve your case without having a conviction on your record. This is generally called "diversion," and the programs vary depending on the charges and other factors. The OAG alone has the right to decide whether to offer you an opportunity for diversion based on an individualized review of your case. The OAG also has the sole right to decide that you have failed to fulfill the requirements of your diversion program. The court will set "diversion status hearings" to review your compliance with the terms of your diversion agreement.

C. Plea Offer: In most cases where the OAG does not offer a "diversion" opportunity, the OAG will make a plea offer, which is an offer to possibly dismiss or reduce charges or limit the punishment it requests in exchange for your plea of guilty to a specified offense. If you decide to accept the government's offer, the judge will engage in a discussion with you as described in Section XVI below.

D. Setting Trial Tracks: If you have requested a trial, your case will be scheduled on one of two trial tracks:

1. Track I (the non-complex trial track) cases will be scheduled for future court dates as follows: status hearing in 30 days and trial date 45 days later. Generally most permit related offenses (driving without a permit, driving after suspension or revocation) and most other traffic and D.C. Misdemeanors will be considered non-complex cases unless the parties can demonstrate that the matter is complex.

2. Track II (complex trial track) cases will be scheduled for future court dates as follows: status hearing in 90 days and trial date 30 days later. Generally all alcohol related offenses, and other offenses such as leaving after colliding property damage, or leaving after colliding personal injury, and possession of a firearm or ammunition, will be considered complex matters.

The Scheduling Order is attached as Form C.

XV. Motions

Pursuant to Rule 47-I motions must be filed within 10 days after your arraignment or entry of appearance by counsel, whichever is later. Generally, all motions will be decided on the trial date just before the trial actually begins. In some instances the court may set a motion hearing prior to the trial date to decide the motion.

XVI. What Happens if You Enter a Diversion Program?

Only the OAG decides whether to offer diversion and, if so, which program. The most common diversion programs and the scheduling of hearings when diversion is entered are as follows:

A. Family and Medical Counseling Services Diversion (Family and Medical Counseling Services, Inc. is a social services agency located in SE, D.C.): This program is intended for people charged with traffic related alcohol offenses. In this program, the defendant enters an alcohol/drug counseling and treatment program and is required to attend classes where instruction is given on the effects of drinking/substance use and driving. Classes can include group therapy or individual sessions. Fees associated with this diversion program are paid by the defendant and must be paid prior to receiving the service. The fees may be reduced depending on the defendant's income.

B. Community Service Diversion: The defendant agrees to perform community service through various D.C. non-profit or D.C. government entities designated by the D.C. Superior Court Criminal Division, Community Court Office, and Community Service Program. The defendant may be required to perform anywhere from 4 to 40 hours of community service before the defendant's next court date in order to satisfy his or her obligations under the agreement.

C. Remedying Diversion: If you are charged with driving with no permit, operating after suspension or revocation, or any other charge involving your

license, registration or insurance, the OAG may dismiss the case against you if you can remedy the situation. To remedy the situation you will have to get a valid license, registration, or insurance and bring proof of that to your first court date. If your license has been suspended or revoked you must get your license reinstated (that may mean paying parking tickets, child support, or other financial obligations).

D. Remedying and Community Service Diversion: The defendant is to remedy first and come back to the next court date with proof a valid driver's license and/or a certified driving record. The defendant is then given community service hours to complete before the next court date.

E. Post and Forfeit Diversion: For certain offenses, a defendant may post and forfeit a set amount of money and the prosecutor will not continue to prosecute the case. For a complete list of post and forfeit charges and the associated fine you can go to www.dccourts.gov/internet/legal/aud_criminal/criminalforms and the list should also be available at all police stations.

F. Social Services Referral Diversion: A defendant will be offered the opportunity to participate in a particular social services program that is identified by OAG. If the defendant returns on the next court date with proof of participation the case will be dismissed. The social services programs may include mental health treatment, alcohol and substance abuse treatment, job training, medical care, housing assistance, and/or education.

G. Deferred Sentencing Agreement: In some cases the OAG will offer a Deferred Sentencing Agreement (DSA). This is an agreement between the defendant and the government that requires the defendant to admit an offense and enter a plea of guilty, but gives the defendant the opportunity to follow certain conditions stated in the agreement – such as completing community service or participating in a traffic alcohol program or other program – within a period of time specified in the agreement. If the defendant does what the agreement requires in the specified time, the defendant will be allowed to withdraw his or her plea at the next hearing date and the case will be dismissed. If the defendant does not fulfill the terms of the agreement, however, the government will ask the court to impose an appropriate sentence upon the defendant on the day of sentencing.

H. Time to complete diversion: If you agree to enter a diversion program the judge will place the case on the Diversion Track and set a next court date (a "diversion status hearing") up to 60 days in the future. If you successfully complete the diversion program requirements, the government will dismiss the charges against you and you will not have a criminal conviction. It is important to complete all of your diversion requirements by the diversion status hearing date because if you do not, the OAG may withdraw the diversion offer. If the diversion offer is withdrawn you must then make a decision if you want to enter a plea of guilty or if you want to request a trial. The OAG may decide to

give you more time to complete the diversion requirements and set another diversion status date in 30-60 days, or may require that a trial date be set but allow you to still complete the terms of the diversion agreement. If the diversion agreement is completed prior to the date of trial, the OAG may dismiss the charges against you and cancel the trial date. If the OAG requests a trial date, the trial will be set 30-45 days after the diversion status hearing date.

XVII. Resolving Your Case by Plea

If you wish to accept the plea offer made by the government and enter a plea of guilty, you will have to sign (1) consent to plea before a Magistrate Judge form (Form B) and (2) a waiver of right to trial (Form D).

A. The Plea Proceeding: Once you and your lawyer sign the forms and submit them to the clerk, the clerk will call your case and the judge will ask you a series of questions to make sure that you understand your rights and that your plea is being entered freely and voluntarily. The judge may place you under oath. If the judge determines that you understand what you are doing and are entering your guilty plea willingly, and if you admit facts that support the offense you are pleading to, the judge will accept your plea of guilty.

B. The Questions the Judge Will Ask: Pleas of guilty are governed by Superior Court Criminal Rule 11, although the judge will decide what specific questions he/she will ask of you when you are pleading guilty. A list of the typical questions asked during a guilty plea is attached in Form F.

C. The Factual Proffer: As part of the plea, the court will ask the OAG to state the facts describing what you did in committing the offense you are pleading to. After the OAG has given this information to the judge, you will be asked to say whether what the OAG has presented is true. If you deny the facts that show you committed the crime, the judge cannot accept a guilty plea.

D. Sentencing: If the court accepts the guilty plea you will be sentenced. The court may sentence you to jail time, probation and/or a monetary fine, depending on what the law says the possible penalties are for the offense you have pleaded guilty to. If you are convicted the court is required by law to order you to pay a fee to support the Victims of Violent Crime (VVC) fund. That fee will be a minimum of $50 or $100 depending on the charge. The court cannot suspend or waive the VVC fee. In some cases, the court may set the sentencing for a future date and order a presentence report. The presentence report is prepared by the Court Services Offender and Supervision Agency (CSOSA) and will give the sentencing judge more information about you and your circumstances in order for the judge to create an appropriate sentence.

XVIII. What Happens on the Day of Trial?

On the day of trial, both parties are expected to be prepared to proceed to trial immediately. Witnesses must be present in the court or on their way. In some cases, witnesses may be placed "on call" with a promise by the witness to arrive in the courtroom within a specific time after being called to appear. The judge will usually inform the parties that it will begin the trial after completing other non-trial calendar matters, usually within one or two hours, or may "certify" the trial to another judge who is available to hear it more quickly.

A. If the OAG announces at the trial call that it is "ready" for trial: This means the OAG is prepared to start the trial immediately. Your lawyer must announce that you are "ready" for trial, or if you are unable to proceed to trial and are requesting a continuance of the trial, give reasons why a continuance should be granted. Rule 111(c) requires that motions for continuance be made in writing 48 hours prior to trial, and the judge will ask your lawyer to explain any failure to file such a motion. If your case is proceeding to trial, you must decide whether to go forward with the trial or enter a plea of guilty. Your lawyer will give you advice about these options.

B. If the OAG is not "ready" for trial: This means that the OAG is for some reason not prepared to go to trial that day. The government may request a continuance in which case it would have to give reasons to the court why the continuance should be granted, or may dismiss the case against you. If the continuance is granted the court will select the next available trial date. If the continuance is denied, your lawyer may ask the judge to dismiss the case. If the judge dismisses the charges "without prejudice," the OAG may file the same charges against you again. If you receive a notice that the charges have been filed against you again, you must appear in court on the date stated in the notice. If the judge dismisses the charges "with prejudice," the OAG may not file the charges again.

C. Three Day Carry Rule: Parties are expected to be available to try a scheduled trial for three business days. The vast majority of cases that are "ready for trial" proceed to trial on the scheduled date. If for some reason the court cannot reach the trial on the scheduled trial date, however, parties are expected to be ready to proceed to trial on the subsequent two business days after the scheduled trial date, or to seek a continuance for good cause.

XIX. Court Performance Standards

The court has established time standards for the disposition of cases and trial certainty standards to ensure that cases are resolved in a timely and fair manner.

A. The time to disposition standards are:

75% of cases disposed within 120 days;

90% of cases disposed within 180 days; and,

98% of cases disposed within 270 days.

B. The trial certainty standard is:

80% of trials held within two trial dates.

Form A

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Criminal Division

Notice to Appear in Court or Post and Forfeit

1st, 3rd and 4th District Arrests by Any Law Enforcement Agency Within These Districts

Thumb Print

SUBJECT INFORMATION

Arrest No.	CCN	PDID	DOB
Station Clerk/Officer/Badge/Unit/Cad.No.		Offense PSA	
Name of Arrested Person: **Last, First, Middle**			
You Have Been Arrested for the following offense(s) *(Please List All Arrest Charges)*			

Release and Return to Court Information

☐ CITATION RELEASE ONLY

Officers: Please mark the appropriate Courtroom location and select a date by using the date chart on the Court's website.

You are being released on your promise to appear at the Superior Court of the District of Columbia, 500 Indiana Ave., NW, Washington, D.C. on the **DATE** and **TIMES** below:

☐ **ONLY OAG Charge(s)**

_____ at _____
DATE TIME

in Courtroom 120

Appearance times are based on the charge(s):

Impaired Driving Offenses	9 AM
Any Other Traffic Offense	10 AM
All Non-Traffic Offenses	11 AM

☐ **ONLY U.S. Charge(s)**

_____ at 9:30 a.m. in Courtroom C-10
DATE TIME

☐ **U.S. AND OAG Charges**

_____ at 9:00 a.m. in Courtroom 120
DATE TIME

_____ at 9:30 a.m. in Courtroom C-10
DATE TIME

I acknowledge receipt of this Notice to Appear. I promise to appear on the date and time indicated above. I understand that if I fail to appear, a bench warrant may be issued for my arrest. I also understand that if I fail to appear I may be charged with a criminal offense that may result in a fine, imprisonment, or both if I am convicted of failing to appear.

_____ _____
Signature of Arrested Person Date

☐ POST AND FORFEIT MONEY ONLY

Charge: _____ **Post and Forfeit Amount:**

$

I have chosen to pay and forfeit the collateral (money) amount set for the charge(s). I understand that I am waiving my right to a Court hearing when I pay and forfeit the amount set for the charge(s).

_____ _____
Signature of Arrested Person Date

ATTENTION ALL ARRESTED PERSONS

If the Superior Court is closed due to an emergency, you must return to Court on the next business day at 9 a.m.

☐ COURT ORDERED BOND RELEASE ONLY

Officers: Please complete if the arrested person posts bond on a warrant issued by a D.C. Superior Court Judge.

You were arrested on a bench warrant issued by a D.C. Superior Court Judge because you failed to appear in a criminal case. You must report to Courtroom C-10, 500 Indiana Ave., NW, Washington, D.C. on:

_____ at 9:30 a.m.
DATE TIME

Bond Amount

$

Name and Address of Person Posting Bond

_____
Name

_____

_____
Address

I have paid the bond set by the Court. I promise to appear on the date and time above. I understand that if I fail to appear, a bench warrant may be issued for my arrest. I also understand that if I fail to appear, I may be charged with a criminal offense that may result in a fine, imprisonment, or both if I am convicted of failing to appear.

_____ _____
Signature of Arrested Person Date

☐ JURORS ONLY

You were arrested on a bench warrant for failing to appear for D.C. Superior Court jury service. You will be released today to report to the D.C. Superior Court, **Room 3130** [The Jurors' Office], 500 Indiana Ave., NW, Washington, D.C., on:

_____ at 9:30 a.m.
DATE TIME

I promise to appear on the date and time above. I understand that if I fail to appear, a bench warrant may be issued for my arrest. I also understand that if I fail to appear I may be charged with a criminal offense that may result in a fine, imprisonment, or both if I am convicted of failing to appear.

_____ _____
Signature of Arrested Person Date

☐ Acknowledgement of Receipt of Notice to Arrested Person

I acknowledge that I have received and read the Notice To Arrested Persons and I understand my rights.

_____ _____
Signature of Arrested Person Date

Address: _____

Phone: _____ Email: _____

Issued by Acting Clerk, Superior Court of the District

_____ _____ _____
Signature of Station Clerk Badge No. Unit

NOTICE TO ARRESTED PERSONS

Please review the information below that explains your release and your duty to comply. The information below is subject to change without advance notice.

☒ CITATION RELEASE

If you are eligible, you may be released immediately on your promise to go to D.C. Superior Court, 500 Indiana Ave., NW, Washington, D.C. on the **date** and **time** on the Citation Release section on Page 1 of this document.

A prosecutor will decide whether to file a criminal case against you. If you do not appear in Court, a bench warrant may be issued for your arrest. In addition, you could be charged with failing to appear even if the prosecutor decides to drop the case.

As a condition of your release on citation, you may be directed to stay away from and have no contact with a particular person or persons and/or to stay away from a particular place until you appear in Court.

If you violate the stay away, a police officer can immediately arrest you, and you will be brought to Court on the next day that the Court is open. If the prosecutor charges you with any crime, you will have a right to be represented by an attorney. If you cannot afford an attorney, one will be provided for you.

IMPORTANT INFORMATION

Even though you were arrested, the government may decide not to file charges against you in Court. It is important that you bring the citation release form with you to Court on your arraignment date because it contains information that you may need to identify whether or not the government has filed charges in Court.

FOR CASE INFORMATION

For information on the status of your case, you may call the D.C. Superior Court's Criminal Division Customer Service line at **(202) 879-1373.**

☐ BOND RELEASE

You have been arrested on a bench warrant. You may post a bond in the amount set by the judge who issued the warrant. If you pay the bond, you will be released to appear in Court on the **date** and **time** indicated on Page 1 of this document. If you do not appear on that date and time, a new bench warrant could be issued for your arrest. You could be charged with failure to appear even if the prosecutor decides to drop this case. Failure to appear for the Court date also could lead to the loss of the bond you have paid.

☒ POST AND FORFEIT MONEY

If you have been charged with an eligible offense and you are eligible to post and forfeit, you may pay the amount of money set by the Court for the offense and the case will end. If you choose to pay the amount set, you will **NOT** get your money back because you are agreeing to forfeit the amount. No sanction, penalty, enhanced sentence, or civil disability will be imposed by any District of Columbia court or agency in any subsequent criminal, civil, or administrative proceeding or action if you post and forfeit. You **WILL** have an arrest record. You may file a motion with the Superior Court to seal your arrest record. For more information regarding sealing your record, you can contact the Public Defender Service of the District of Columbia at **202-628-1200** or via email at **www.pds.dc.org.**

- **WHAT IF YOU CHANGE YOUR MIND AND DECIDE TO CONTEST THE CHARGES?** If you decide you would rather appear in Court after you post the money, you can file a "Motion to Set Aside Forfeiture" within 90 days of today's date.
- **WHAT IF THE GOVERNMENT DECIDED TO OPPOSE YOUR POST AND FORFEIT DECISION?** The Office of the Attorney General for the District of Columbia, the prosecutor for this case, may file a "Motion to Set Aside Forfeiture" within 90 days.
- **WHAT HAPPENS IF THE COURT GRANTS THE MOTION?** If your motion or the government's motion is granted, the charges be reinstated and you will have to go to Court. If you cannot afford an attorney, you may be eligible for appointed counsel.

If you choose not to post and forfeit and elect to continue the criminal case, you are eligible for release on citation.

☐ IMPORTANT NOTICE TO ARRESTED PERSONS REGARDING TRAFFIC OFFENSES

If you have been arrested for **No Permit**, **Operating After Suspension** or **Operating After Revocation**, it may help to resolve your case early if you bring the following documents to your Court date:

- **No Permit:** A valid permit (or learner's permit from the District of Columbia Department of Motor Vehicles (DMV) or a valid out-of-state permit **AND** a 15-year driving record.
- **Operating after Suspension or Revocation:** If your license was suspended or revoked, provide certified documentation from the District of Columbia Department of Motor Vehicles or from your home state's Department of Motor Vehicles stating that you have corrected the problems that led to your suspension or revocation, including the payment of any outstanding tickets or support obligations, and that you have paid any reinstatement fees. The document also must indicate that your license has been reinstated and that you are in good standing.

Form B

United States of America/
District of Columbia

vs. Case No. _____

_____

CONSENT TO NON-JURY TRIAL OR PLEA

BEFORE SUPERIOR COURT MAGISTRATE JUDGE

The Superior Court Magistrate Judge has explained to me the nature of the offense(s) with which I am charged and the maximum possible penalties which might be imposed if I enter a plea or proceed to a non-jury trial. The Magistrate Judge has informed me of my right to a trial and assistance of legal counsel.

I HEREBY Waive (give up) my right to trial and judgment before a Superior Court judge, and I consent to plea/trial, judgment and final sentencing before a Superior Court Magistrate Judge.

_____ _____

Assistant D.C. Attorney General Defendant

_____ _____

Attorney for Defendant Magistrate Judge

Form C

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

DISTRICT OF COLUMBIA) Case No. _____
)
v.)
)
Defendant's Name)

CRIMINAL SCHEDULING ORDER

Pursuant to the case management plan enacted on July 6, 2015, the following are the deadlines and next events for this case

Arraignment was held: _____:

Case has been placed on Diversion Track:
Diversion Status Hearing is scheduled for:

_____ _____ _____
Date Time Courtroom #

Case has been placed on Track I (non complex):
Misdemeanor Initial Status Hearing is scheduled for:

_____ _____ _____
Date Time Courtroom #
(note: motions are due 10 days after arraignment)

Non Jury Trial is scheduled for (misd initial status + 45 days)

_____ _____ _____
Date Time Courtroom #

Case has been placed on Track II (complex):
Misdemeanor Initial Status Hearing is scheduled for:

_____ _____ _____
Date Time Courtroom #
(note: motions are due 10 days after arraignment)

Non Jury Trial is scheduled for (misd initial status + 30 days)

_____	_____	_____
Date	Time	Courtroom #

You must appear in Court on the above dates. Failure to appear can result in imprisonment for 180 days and/or a $1,000 fine.

A schedule may be modified only for good cause and with the judge's consent.

Form D

United States of America/
District of Columbia
vs. Case No. _____

_____

PLEA AGREEMENT AND WAIVER OF TRIAL

PLEA AGREEMENT: Defendant and the Government enter into the following plea agreement:

_____

_____

YOU ARE NOT REQUIRED TO PLEAD GUILTY. If you do plead guilty, you will give up important rights, some of which are stated below.

First, you give up your right to a trial by the court or a jury, comprised of 12 members of the community. At a trial you would be presumed to be innocent and the Government would be required to present evidence in open court to prove its case beyond a reasonable doubt.

At the trial you have the right to have a lawyer represent you. The lawyer would be able to cross-examine witnesses, file motions to suppress evidence and statements, and make objections and arguments on your behalf. You would have the right to question any witness and you could have witnesses come to court and testify for you. You would also have the right to testify if you wanted to; however, if you chose not to present testimony that decision could not be used against you. You could not be convicted at trial unless the court found that the Government had proved your guilt beyond a reasonable doubt.

Second, you give up your right to appeal your conviction to the Court of Appeals. This is a right you would have if you were convicted after trial. The right to appeal includes the right to have the Court of Appeals appoint a lawyer for you and pay for your lawyer's services if you could not afford a lawyer.

Third, if you are not a citizen of the United States, your plea of guilty could result in your deportation, exclusion from admission to the United States, or denial of naturalization.

Your signature on this form means that you wish to plead guilty and give up your right to trial and your right to appeal. If the court accepts your guilty plea, you will be convicted and the only matter left in the case will be for the court to sentence you. No person can guarantee what your sentence will be.

I HAVE REVIEWED THIS FORM WITH MY LAWYER AND HAVE DECIDED TO PLEAD GUILTY IN THIS CASE. I HAVE DECIDED TO GIVE UP MY CONSTITUTIONAL RIGHT TO HAVE A TRIAL AND TO GIVE UP MY RIGHT OF APPEAL.

_____	_____
Asst. D.C. Attorney General	Defendant
_____	_____
Attorney for Defendant	Magistrate Judge

Approved this _____ day of _____, 20___.

FORM E

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

DISTRICT OF COLUMBIA

vs.

_____
(Defendant)

Case No. _____

Receipt No. _____

Officer _____ Pct. _____

NOI No. _____

Charge _____

Offense Date _____

MOTION TO SET ASIDE FORFEITURE

Comes now the Defendant in the above-entitled case, and respectfully requests the Court to set aside the forfeiture entered on _____ for the following reasons:

_____

_____

_____

_____

_____.

_____
(Attorney) (Defendant)

Address _____

_____

Government ☐ does not oppose ☐ opposes defendant's motion for the following reason:

_____

Officer's Court Date _____

Set for Hearing on _____

A copy of the foregoing motion was received this

_____.
(Date)

_____
Assistant Corporation Counsel

Motion to set aside forfeiture

Granted Denied Date _____

Set for Arraignment on _____
(Date)

_____
JUDGE/COMMISSIONER

Officer Notified _____
Liaison Officer

Form CD-1507/Mar 90 White — Court Jacket Canary — Corporation Counsel Pink — Defendant 0-1807 wd-286

Form F

SAMPLE PLEA COLLOQUY--TRAFFIC

To the Defense Counsel: Please place the terms of the plea agreement and the maximum sentence on the record.

To the Defendant:

>>>>Do you understand that if you are not a citizen of the United States, your plea of guilty could result in your deportation, exclusion from admission to the United States, or denial of naturalization?

>>>Are you under the influence of any drugs or alcohol that affects your ability to make a decision today?

>>>Are you satisfied with your lawyer?

>>>>Has anyone promised you what sentence you will actually receive?

>>>>Has anyone forced or threatened you to plead guilty?

>>>>Do you understand that you are not required to plead guilty and that you have a right to go to trial if you want to?

>>>>Do you understand that if you went to trial the Govt would have to prove you guilty beyond a reasonable doubt and your lawyer would have the right to questionX all of the government's witnesses?

>>>>Do you understand that at trial you have the right to present a defense and to testify, but no one can force you to do either because you have an absolute right to remain silent at your trial?

>>>>Do you understand that if found guilty at trial, you would a right to appeal. If you could not afford a lawyer at appeal, one would be appointed for you.

>>>>Do you understand that by pleading guilty, you give up each of these rights? There would be no trial and no appeal.

>>>>You signed a form indicating that you waived your right to trial and appeal, did you read it and understand it before you sigend it?

At this time, please listen to the prosecutor who will indicate what the govt's Evidence would have been at trial. At the end of the proffer, I will ask whether you agree or disagree.

>>>>How do you plead on the charge of (), Guilty or Not Guilty?

Domestic Violence Case Management Plan

From the commencement of litigation to its resolution, whether by trial or settlement, it is the goal of this Court to reduce delay and enable just and efficient resolution of cases, with the Court, not the lawyers or litigants, controlling the pace of litigation.

(Adopted from Standard 250, ABA Standards Relating to Court Delay Reduction.)

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Purpose

The purpose of the case management plan is to inform the public and court staff regarding the specific procedures of the Domestic Violence Unit.

Goals

To provide an efficient and effective case management system which will ensure:

- Fair and timely resolution of domestic violence disputes
- Procedural fairness for all litigants before the Court
- Enhancement of the quality of the litigation process
- Public confidence in the Court as an institution

Benefits

The benefits of an accessible case management plan are:

- To support the Court's use of early and continuous control of the case as it progresses from filing to disposition and any post-disposition court activity
- To highlight the roles, responsibilities, and expectations of all participants in the court process thereby enhancing case flow and outcome
- To provide a document for continuing communication and collaboration of stakeholders to facilitate continuing improvement and best practices
- To reinforce the DC Courts' Values of Accountability, Excellence, Fairness, Integrity, Respect and Transparency

Court Performance Measures and Policies

The Court's time to disposition standards (the time from filing to disposition of the case) are as follows for Civil Protection Orders (CPOs):

- 80% of all cases within 30 days
- 98% of all cases within 60 days

In cases where a temporary protection order (TPO) is issued, the hearing on the petition for a Civil Protection Order is within 14 days pursuant to Superior Court DV Rule 7A (c) and D.C. Code §16 1004 (d).

For cases that are set for trial, the court's goal is to hold the trial on the first date that the trial is scheduled, and to grant trial continuances only upon a showing of good cause. In so doing, the court seeks to establish credible trial dates, to encourage proper preparation by all parties, to help to ensure effective use of court resources, and to further the interests of litigants and the public in the timely and just resolution of all cases.

What is Domestic Violence?

Under the District of Columbia law, domestic violence is called an intrafamily, interpersonal or intrapersonal offense. This is sometimes broader and sometimes more restrictive than the general definition of domestic violence. An intrafamily offense is anything that could be punished as a crime,

when it is committed by someone related to another in certain ways (see *Who Can File a Petition for a CPO,* requirement 2 below for examples of these relationships.)

What is a Civil Protection Order (CPO)?

The Court can issue a Civil Protection Order (CPO) under the D.C. Intrafamily Offenses Act, D.C. Code § 16-1001 to 1059 (2014).

A CPO is an order from the court which prohibits a person (the respondent) from doing certain acts and instructs them to do other things. The CPO can be issued when a judge determines that the respondent, more likely than not, committed a crime against the other party, (the petitioner). The CPO can be granted for up to one year.

The CPO can order the respondent to stop hurting, harassing, or threatening the petitioner, to stay away from and to have no contact with the petitioner. If the respondent does not obey the order, they can face criminal penalties including jail time.

In some situations, it can also:

- Order the respondent to leave a residence, provided the petitioner owns the home, pays rent to stay in the home, is married to the respondent or allowing the respondent to remain in the home would be inconsistent with the purpose of the Civil Protection Order.
- Make temporary custody, visitation and support arrangements.
- Order the respondent to attend counseling programs for domestic violence, parenting skills, or alcohol or drug abuse.

Who Can File a Petition for a CPO?

To file a petition for a CPO, a petitioner must:

1. Live, work or go to school in D.C. or the crime must have occurred in D.C.

2. Be related to the respondent by one of the following:

- Blood (parent, child, sibling, or other relative).
- Marriage or domestic partnership.
- Legal custody or adoption.
- Having a child in common.
- Sharing a residence, now or in the past.
- Having a romantic or dating relationship (sexual or non-sexual), now or in the past.
- Having a relationship (marriage, domestic partnership, dating) with the same person the respondent has or had a relationship with.
- Having been or currently being stalked by the respondent.
- Having been or currently being sexually abused by the respondent.

3. Show that the respondent committed a crime that could be punished as a criminal offense in D.C. such as:
    - Assaulting or threatening to assault - for example, hitting, trying to hit, verbally threatening to hit, or pointing a weapon at the petitioner.
    - Kidnapping - for example, taking the petitioner somewhere against their will or not letting them leave their home.
    - Stalking.
    - Raping, sexually abusing, or engaging in unwanted sexual touching - this includes using threats to get the petitioner to engage in sexual conduct.
    - Cruelty to children.
    - Destroying property or threatening to damage property (for example, slashing the petitioner's car tires or hurting their pet).

Minor Parties

1. If the petitioner is a minor (under age 18):
    - A parent, guardian, custodian or other "appropriate adult" may file on their behalf
    - They may file for themselves, if they are at least 16 years of age
    - They may file for themselves, if they are at least 12 years old and a victim of violence by someone with whom they have or have had a relationship with, at least.

    If the respondent is a minor (under age 18):
    - The petition must be filed against a parent, guardian, custodian or other "appropriate adult" on behalf of the minor if the respondent is less than 12 years of age
    - The petition must be filed against the minor if the respondent is at least 12 years old
    - Any violations of a Civil Protection Order granted against a minor respondent (12 to 18 years old) are handled by the Family Court Juvenile and Neglect Branch not the Domestic Violence Unit

How to File a Petition for a Civil Protection Order (CPO)

Where to File for a CPO?

<u>The Domestic Violence Intake Center at D.C. Superior Court:</u>
Where: 500 Indiana Avenue, NW Washington, DC, Fourth Floor Room 4550.
When: Weekdays from 8:00 AM to 4:00 PM.
Phone: 202-879-0152

<u>The Domestic Violence Intake Center at United Medical Center (formerly Greater Southeast Hospital):</u>
Where: 1328 Southern Avenue, SE, Washington, DC, Room 311.
When: Weekdays from 8:00 AM to 4:00 PM.
Phone: 202-561-3000

The intake centers are the primary point of entry for domestic violence cases filed in the D.C. Superior Court. The intake centers are staffed by representatives from the Office of the Attorney General, the U.S. Attorney's Office, the Metropolitan Police Department, DC SAFE, Legal Aid of the District of Columbia, Bread for the City, the Wendt Center, and District of Columbia Forensic Nurse Examiners.

DVIC staff provides the following services:

- Explaining the Court process, including:
  - How to obtain a CPO
  - Service of process
  - Custody, visitation, and child support issues to consider and investigate before trial
  - Useful evidence to bring to Court
  - Role of the Court's Attorney Negotiator
  - Court procedures on the day of the hearing
  - Safety planning issues
- Providing referrals to trained lawyers and appropriate social services

Steps for Getting a Civil Protection Order

1. Fill out a petition for a civil protection order. (There is no filing fee.)

On the petition, the person requesting the protection order will be the "petitioner" and the person the petitioner is filing against will be the "respondent."

Write about the most recent incident of violence. Include details and dates, if possible. Be specific.

Be prepared: this process may take several hours. If one's children are toilet-trained, they can stay in the courthouse daycare center while the petition is being filed.

Note: If the respondent was arrested, and there is a criminal case against him/her, the petitioner can meet with someone from the U.S. Attorney's Office called a Victim Witness Advocate. The petitioner is known as the "complaining witness" in the criminal case. The advocate will help the complaining witness prepare for the criminal case, and can provide referrals for other needed assistance. The criminal case is separate and different from the civil case being filed. (See *Criminal Prosecution of Domestic Violence* below.)

2. A judge will consider the petition.

The intake counselor will take the completed forms to the clerk's office, where court staff will open a court file. If a Temporary Protection Order (TPO) is requested, Court staff will then escort the petitioner to the courtroom, where a judge will look at the petition and determine if the safety or welfare of the petitioner or a household member is immediately endangered by the respondent. Temporary protection order hearings at Greater Southeast Hospital are conducted via a video teleconference with the judge. The petitioner will sit in front of a camera and watch the judge on a television screen. If the judge grants the temporary protection order, the petitioner will get a copy of it.

3. Service of process of a petition (see **Petitioner's Guide to the Court**)

The respondent must be "served," or given the papers that tell him/her about the hearing date, the petition stating what he/she did, and the TPO (if the judge issued one). If the respondent lives in DC, or some nearby Maryland and Virginia locations, the police will try to serve him/her with copies of the papers filed. There is no charge to have the authorities serve the respondent. The petitioner will have to tell them where the respondent lives or works or where he/she can be located. If the respondent does not live in DC, or if there is a preference to have someone other than the authorities to serve the papers, there are two options:

- arrange for a third person not involved in the case (over the age of 18) to serve him/her
- hire a process server (cost: $60-$100).

Note: Petitioners should not try to serve the papers. It could put them in danger, and service from the petitioner is not legally valid.

4. Having Trouble serving the respondent

The person who serves the paperwork needs to fill out the Return of Service form . This form must be brought to Court.

If a petitioner is having trouble serving the respondent, the petitioner may ask the Judge on the day of the hearing to continue the case (reschedule the hearing). If there is a TPO, the petitioner can also ask the Judge to extend the TPO until the next hearing date.

Court Forms Related to a CPO

Petition and Affidavit for Civil Protection Order

Order of Protection

Temporary Protection Order (sample)

Motion to Adjudicate Criminal/Civil Contempt

Motion to Modify, Extend or Vacate Civil Protection Order and Points and Authorities in Support Thereof

Domestic Violence Respondent Description Sheet

Return of Service Form on Petitioner

Return of Service Form on Respondent

Blank Motion

Subpoena

Motion to Set Aside Protection Order

Is a Lawyer Needed?

Although a person does not need a lawyer to file for or to respond to a civil protection order, it may be to their advantage to seek legal counsel.

The Hearing for the Civil Protection Order

Why the Hearing is Important

This is the parties' opportunity to present to the court their side of the story. If the petitioner does not come to Court, the judge may dismiss the case and the TPO will expire. Additionally, if the petitioner is receiving assistance through Crime Victims' Compensation, assistance may end if the case is dismissed. If the respondent does not appear a bench warrant could be issued for their arrest.

What Happens During the Court Hearing?

If Both Parties are Present:

Each party will meet alone with the Attorney-Negotiator who works for the Court. The Attorney-Negotiator will discuss the petition and what the person who filed the petition has asked the Court to order.

If the respondent and the petitioner agree to the CPO and the conditions that are negotiated between the two people, the judge will review the order to make sure everyone understands the order and then will sign it. The order will be good for one year.

If the respondent and petitioner do not agree to the CPO and its conditions then a hearing will be held that day. A judge will hear from both persons and any witnesses present. The petitioner must convince the judge that the respondent has more likely than not committed a crime against them. The respondent should be prepared to respond to the allegations and bring any supporting evidence. (See Respondent's Guide to Court.)The judge will listen to witnesses and review any evidence such as pictures of injuries or damaged property; papers from a doctor or hospital regarding injuries; voice, text, or emails related to the case. The judge will make a decision to grant or not grant the CPO and explain any conditions of the CPO.

If the Respondent is Not Present

If the respondent *has been served* but is not present, the judge may enter a default judgment against the respondent if the judge believes it is more likely than not that the harm described in the petition occurred. **This default CPO must be served upon the respondent to be enforceable.** If a TPO was previously issued, the terms of that order will remain in effect until the default CPO is served, thereby continuing the protection for the petitioner.

The default order can only be set aside if:

- the respondent files a motion signed under oath and within 10 days of service to vacate (take back) the default order
- the respondent shows both good cause for the failure to appear and grounds which, if proved, would be sufficient to prevent the issuance of the civil protection order in whole or in part

- A hearing is then held on the motion to vacate (if necessary).
- This motion requires that the petitioner be personally served. If a respondent is having trouble serving the petitioner, the respondent may ask the Judge on the day of the hearing to continue the case (reschedule the hearing).

The judge could also enter a default judgment against the respondent and schedule the hearing for another date. If this occurs, the Court will mail the respondent a notice of the hearing.

If the respondent does not show up, the judge may also issue a bench warrant for the respondent's arrest.

After the Civil Protection Order Hearing

Violations of the Civil Protection Order

When a petitioner has a civil protection order, they can report any violations of that order. If the respondent violates the order, the petitioner can call the police and report the violation. Violation of a temporary or final civil protection order is known as "criminal contempt" and can be a misdemeanor crime, which can be punished by a fine, imprisonment for not more than 180 days, or both. Also, if the respondent committed a crime while violating the order (e.g., he/she violated the order by hitting the petitioner), he/she can also be charged with the crime that he/she committed and be punished separately for that crime.

Another option is to file a violation petition (contempt petition) in court. The petitioner can return to the Domestic Violence Intake Center/Clerk's Office where they can file:

- a Motion to Adjudicate Civil Contempt (for things such as nonpayment of monetary support); or
- a Motion to Adjudicate Criminal Contempt (for things such as the respondent contacting, threatening or abusing the petitioner). A prosecutor for the Office of the Attorney General and/or the U.S. Attorney's Office will review the petition to decide if the contempt case will move forward.

How to Change or Extend the Civil Protection Order

To **change** the terms of the order, the petitioner or the respondent can ask the court to change the order if circumstances change. The petitioner or the respondent will have to file a motion with the court and then attend another court hearing to convince the judge this change to the order is necessary.

To **extend** a civil protection order beyond its expiration date, the petitioner must file a motion to extend the order. The petitioner must believe they still need protection from the court and will have to give the court a reason (called "good cause") to extend the order.

If the petitioner no longer feels they need the protection of the court, they can file a motion to vacate (take back) the order. Another option to vacating the order is to modify the order. This would allow the petitioner to keep some of the protection, while placing fewer restrictions on the respondent.

Any motion filed must be served on the opposing party. Both parties will have the chance to appear at the court date where the motion to change or extend the order will be presented to the judge. The judge will review the evidence and decide what actions, if any, to take. Only a court can change a civil protection order. An agreement between the petitioner and the other party outside of court does not change the requirements of the civil protection order.

Criminal Prosecution of Domestic Violence

How Can the Law Help?

The Police

The police are required to report all allegations of domestic violence. Additionally, D.C. has a mandatory arrest policy in cases of domestic violence. This means that if the police have probable cause to believe that an intrafamily offense occurred, they will arrest the offender or apply for an arrest warrant, whether either party wants them to do so or not.

The U.S. Attorney's Office

The U.S. Attorney's Office for the District of Columbia can file criminal charges if there was an arrest for domestic violence. In a criminal case, it is the U.S. Attorney's Office against the person accused, not the accuser against the accused. Once the U.S. Attorney's Office files a criminal case, it is up to them whether to pursue it or not – the accuser cannot force prosecutors to dismiss the charges. The prosecutors do not require the cooperation of an accuser to move forward with the criminal case. However the victim of the crime may be called as a witness. Additional information about criminal prosecution can be obtained from the U.S. Attorney's Office and the Victim Witness Assistance Unit.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 14-23

Revised Case Management Plan for the Domestic Relations Branch

WHEREAS, the 2013-2017 Strategic Plan of the District of Columbia Courts, *Open to All, Trusted by All, Justice for All,* seeks to promote timely case resolution by implementing performance standards, case management plans, and other best practices; and

WHEREAS, performance standards for all Superior Court operating divisions were adopted in 2009 and revised in 2012; and

WHEREAS, a case management plan serves as a management tool to promote achievement of performance standards; and

WHEREAS, a case management plan details the actions that a court takes to monitor and control the progress of a case, from initiation through final disposition, to ensure prompt resolution consistent with the individual circumstances of the case; and

WHEREAS, consistent with the mission of the Family Court, as set forth in the Family Court Transition Plan submitted to the President and Congress on April 5, 2002, the Domestic Relations Branch Subcommittee of the Family Court Implementation Committee established goals to guide the implementation of a comprehensive case management plan for the Domestic Relations Branch; and

WHEREAS, Administrative Order 08-03, issued on March 21, 2008, established a comprehensive case management plan for the Domestic Relations Branch; and

WHEREAS, the Domestic Relations Branch Subcommittee has met with Family Court stakeholders – including representatives from the Legal Aid Society of the District of Columbia, the Family Law bar, the Family Law Section Steering Committee, the D.C. Bar Pro Bono Program, the Neighborhood Legal Services Program, Bread for the City, the Children's Law Center, the D.C. Volunteers Lawyers Project and the academic community – and their input, knowledge and expertise was sought and included in the development of a revised case management plan; and

WHEREAS, a revised case management plan for the Domestic Relations Branch will promote the mission and goals of the Family Court as well as the fair and efficient administration of justice;

NOW, THEREFORE, it is, by the Court,

ORDERED, that the revised case management plan for the Domestic Relations Branch, which is attached hereto, is effective January 1, 2015; and it is further

ORDERED, that this order shall remain in effect until further order of the Court.

SO ORDERED.

DATE: December 31, 2014

/s/
Lee F. Satterfield
Chief Judge

Copies to:

All Judges
Executive Officer
Clerk of the Court
Division Directors
Librarian

Domestic Relations Branch
Revised Case Management Plan
(Effective January 1, 2015)

HISTORY

"The Mission of the Family Court of the Superior Court of the District of Columbia is to protect and support children brought before it, strengthen families in trouble, provide permanency for children and decide disputes involving families fairly and expeditiously while treating all parties with dignity and respect." Family Court Transition Plan, Vol. 1, page 7 (April 5, 2002). Consistent with the mission and goals set forth in the Family Court Transition Plan, the Family Court adopts the following goals to implement a comprehensive case management and scheduling plan for domestic relations matters:

GOALS

- To provide prompt and efficient resolution of cases and to minimize the number of trips to court required for resolution.
- To provide prompt access to justice by providing for earlier initial hearings, pre-hearing information gathering, substantive initial hearings (with appropriate notice) and access to facilitation services at the time of initial hearings.
- To maximize court resources and better serve the public by creating uniformity and predictable schedules, when feasible, and resolving cases fairly and efficiently.
- To provide centralization of domestic relations case scheduling in one location and with uniform scheduling parameters and requirements (consistent with the Family Court implementation plan of centralized intake).

- To promote earlier use of alternative dispute resolution (ADR) in appropriate cases involving children and families to resolve disputes in a non-adversarial manner and with the most effective means.
- To obtain and maintain manageable caseloads with resolution within nationally accepted time frames/standards with a goal to permit judicial officers adequate time to devote to each child and/or family.

METHODS

To accomplish these goals, the Family Court Central Intake Center (CIC), the Domestic Relations Branch (DRB) and the Family Court judges work hand-in-hand to facilitate a fair, efficient, seamless system to provide services to the court's customers.

PERFORMANCE MEASURES

In 2012, the Superior Court of the District of Columbia adopted performance standards for resolving cases fairly and timely.[1] The standards reflect an adaptation of national best practices to the caseloads and circumstances unique to the Superior Court. In domestic relations cases, the court is guided by the following performance measures:

(a) Ninety-five percent (95%) of uncontested custody and uncontested divorce cases should be disposed within 60 days of filing.

(b) Ninety-eight percent (98%) of contested custody and divorce cases on the Domestic Relations I (DR-I) calendar[2] should be disposed within 365 days of filing.

---

[1] *See* Administrative Order 12-04 (March 23, 2012).

[2] Pursuant to Super. Ct. Dom. Rel. R. 40(c), it is the presiding judge's responsibility to designate cases to the DR-I calendar. The factors considered in the determination are "the estimated length of trial, the number of witnesses

(c) Ninety-eight percent (98%) of contested custody and divorce cases on the Domestic Relations II (DR-II) calendar[3] should be disposed within 270 days of filing.

(d) Ninety-five percent (95%) of contested custody and divorce cases should be heard within two trial settings.

CASE INITIATION

The Central Intake Center (CIC) is the depository for all Family Court filings. Upon accepting filings for divorce, custody, and visitation/access, the deputy clerks in CIC will issue a notice of hearing, and the cases will be set within 60 days or less for initial hearing from the date of filing. However, cases involving child support will be set within 45 days or less, as required by statute. If the case involves both child support and other issues, then the support hearing date will serve as the initial hearing date as well. The judges will have set times and dates for the CIC to select and schedule initial hearings. The CIC will also issue an initiation packet that includes a brochure for the Family Court Self-Help Center and information on where to access other legal resources.

UNCONTESTED MATTERS

At the time of filing an uncontested divorce or uncontested custody case -- which includes a complaint for absolute divorce or custody, a consent answer or answers, and/or an uncontested praecipe -- the matter will be assigned to the uncontested judicial officer by the deputy clerks in CIC. In collaboration with the DRB clerk's office and judicial staff, these matters will be scheduled within 30 to 45 days of filing. Pursuant to the Family Court's performance measures, written findings of

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who may appear and the exhibits that may be introduced, the nature of the factual and legal issues involved, the extent to which discovery may require supervision by the Court, the number of motions that may be filed and any other relevant factor appropriate for the orderly administration of justice."

[3] DR-II cases make up the vast majority of all domestic relations cases.

fact and conclusions of law will be entered within 60 days of filing. If an uncontested praecipe and/or consent answer are received after initial filing, the case will remain on the originally assigned calendar, but will be scheduled for hearing by the assigned judicial officer within 30 days from the filing of the uncontested praecipe. If a matter becomes uncontested at the time of the initial hearing, then the assigned judicial officer shall hear the matter on that date.

CONTESTED MATTERS

Initial Hearing: At the initial hearing, the judge shall issue a scheduling order which will provide dates for, among other things, discovery deadlines, motions, pretrial statements, and a pretrial conference. The judge shall also schedule the dates the parties will attend the Program for Agreement and Cooperation (PAC) Seminar and the mediation intake date. The judge may issue a separate order setting forth the procedure and requirements for the pretrial hearing as well as the required content of the pretrial statement. The following guidelines shall be used when issuing a scheduling order, although a judge may determine that a different timetable is more appropriate:

- The *pendente lite* (temporary) hearing should list the issues to be tried and should be held within six weeks of the initial hearing.
- Discovery deadlines should be set for custody, child support, and divorces from 45 to 120 days after the initial hearing, depending on the complexity of the case.
- A deadline for naming experts should be set at least 45 days prior to close of discovery.
- A deadline for completing mediation or ADR should be set no later than two weeks before the pretrial hearing.
- A deadline for discovery motions should be set no later than two weeks before the pretrial hearing.

- A date for filing of a pretrial statement should be set at least one week before the pretrial hearing.
- The pretrial hearing should be set within two to four weeks after the discovery deadline and two weeks before trial.
- The trial should be set within six to nine months after a custody case is filed, but not less than 210 days from that date. To the extent possible, every effort should be made to hear trials on consecutive days.

Multi-Door Dispute Resolution Division/ADR: At the conclusion of the initial hearing, all litigants will be mandated to participate in mediation at the Multi-Door Dispute Resolution Division[4] or ADR.[5]

Attorney Negotiator Program: At the initial hearing, the parties are encouraged to meet with an attorney negotiator. The attorney negotiator is responsible for meeting with all parties and attempting to resolve any issues on which the parties can agree. The attorney negotiator may provide the parties with legal information, but not advice, and can also explain the court process.

Program for Agreement and Cooperation (PAC) Seminar: Parties in contested custody cases will be required to attend a PAC Seminar. The PAC Seminar is designed to help parties co-parent, improve communication, and understand the impact that conflict has on children. The judge may

[4] Where there has been previous domestic violence between the parties, the Multi-Door Dispute Resolution Division may determine mediation is not appropriate.
[5] Parties who have *in forma pauperis* status, or who otherwise qualify as low-income, may not be mandated to participate in paid ADR sessions.

consider the unexcused failure of a party to attend and complete the PAC program when making a final custody determination.

Status Hearings: Judicial officers should avoid automatically scheduling status hearings, but may schedule such hearings as they deem necessary.

Bifurcated divorces: A judge may grant a request to bifurcate a divorce case and resolve the issue of child custody prior to considering contested financial matters. In bifurcated divorce cases, when necessary, the following deadlines may be established:

- The discovery deadline for financial issues will be 45 days after the custody trial.
- The date for naming financial experts for the plaintiff will be three weeks after the custody trial; for the defendant it will be four weeks after custody trial.
- The date for filing a pretrial statement regarding financial issues will be one week before the pretrial hearing.
- The deadline for completing ADR will be two to three weeks after discovery closes and two weeks before trial.
- The trial on financial issues should be held not more than 12 months after case is filed.

MOTIONS SCHEDULING

Upon filing, motions are forwarded to the DRB clerk's office and then submitted to chambers for a ruling or scheduling of a hearing date. When a judge makes a determination on the record regarding a scheduling or consent issue – including, but not limited to, orders appointing *guardians ad litem*,

and orders for mental health evaluations and/or home studies – that order shall be reduced to writing within five business days and mailed to the parties.

For pre-judgment motions, if a motion is not ruled on within 60 days of filing of proof of service on the parties, the DRB clerk's office shall set a date for a hearing on the motion regardless of whether or not a hearing has previously been held. Parties shall be given at least 14 days notice of the hearing. If the motion is ruled on in the interim, the hearing shall be vacated.

Post-judgment motions to modify support will be set for hearing within 45 days, as required by statute. CIC will coordinate selection of a date with chambers in accordance with the calendar judge's schedule. Other post-judgment motions, if not already set by chambers, shall be set for hearing by the DRB clerk's office within 60 days of filing of proof of service on the parties.

EMERGENCY HEARINGS

The following may be considered "emergencies" requiring an *ex parte* hearing: a child in imminent danger, a child who has been kidnapped, a complete denial of access to a child, and other extraordinary situations that the court deems appropriate. Emergency motions will be handled according to the following protocol:

1. Party or attorney advises the deputy clerk at the CIC that he or she is filing an "emergency" pleading and is requesting an emergency hearing.
2. CIC first will contact the chambers of the judge assigned to the case and will advise the chambers' staff of the filing. If the assigned judge is unavailable, CIC will contact the

chamber's staff of the DRB daily emergency judge. Any request for an emergency hearing must be e-filed or submitted to CIC on or before 4:00 p.m. EST.

3. If the judge determines an emergency hearing is required, the chambers' staff will advise the party (or counsel) of the scheduling of the hearing. Unless it would be inconsistent with Super. Ct. Dom. Rel. R. 65(b), the chambers' staff will attempt to call the opposing party (or counsel) to advise him or her of the filing and the time and place of the hearing. Failure to reach the opposing party by phone will not prevent the judge from ruling. In the event that the judge holds an emergency hearing and enters an order granting relief, the judge's order will include the following: (a) a date for a follow-up hearing within ten business days of the order; (b) a date certain by which the adverse party must be served with the motion and the order(s) (if granted *ex parte*); and (c) a statement that failure to appear at the further hearing date or to serve the opposing party may result in termination of the order and dismissal of the case.
4. If the judge determines that an emergency hearing is not required, the judge will issue an order. If appropriate the judge may set an expedited hearing within two weeks. In the event that the judge determines that a hearing should be held on an expedited basis, the judge may enter an order and set the matter to be heard, requiring the presence of the adverse party at said hearing if served with the order; this order may include language that if the adverse party, once served, fails to appear, a decision may be made in their absence.

CONTINUANCES: Continuances are governed by D.C. Fam. Ct. R. G. The judicial officers will make every effort to limit the granting of continuances, especially when it may negatively impact the children involved. Pursuant to the Family Court's performance measures relating to trial date certainty, judicial officers will strive to hear all matters within two trial date settings.

HANDBOOK FOR SELF-REPRESENTED LITIGANTS: In 2014, the Domestic Relations Subcommittee prepared a handbook to assist people who represent themselves in divorce, custody, and child support cases. The handbook is available on the court's website at: www.dccourts.gov/internet/documents/DR-Handbook-for-Self-Represented-Parties.pdf. The handbook provides a great deal of information about domestic relations law and procedures, including filing, service of process, preparation for court, and many other useful topics. It also contains information about other legal resources available to parties in such cases, including the Family Court Self-Help Center, a free, walk-in clinic located in the courthouse that provides assistance to self-represented parties in their family law cases.

RECOURSE FOR FAILURE TO FOLLOW THE COMPREHENSIVE CASE MANAGEMENT AND SCHEDULING PLAN: Litigants whose cases are beyond the timeframes set forth in this document may file a praecipe requesting that judicial action be taken. Said praecipes will aid in alerting both the judicial officer and the clerk's office of the deficiency and will expedite the processing of such cases. A sample praecipe is attached.

Sample Praecipe Requesting Judicial Action

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
DOMESTIC RELATIONS BRANCH

_____	:	
Plaintiff,	:	Jacket No. _____
v.	:	Judge _____
_____	:	
Defendant.	:	

REQUEST FOR JUDICIAL ACTION

Plaintiff/Defendant, _____, hereby requests that judicial action be taken on the above-captioned case and in support states:

1. This request for judicial action is made pursuant to the Case Management Plan for the Domestic Relations Branch, Administrative Order 14-23 (Dec. 31, 2014).
2. _____

_____

_____

Respectfully submitted,

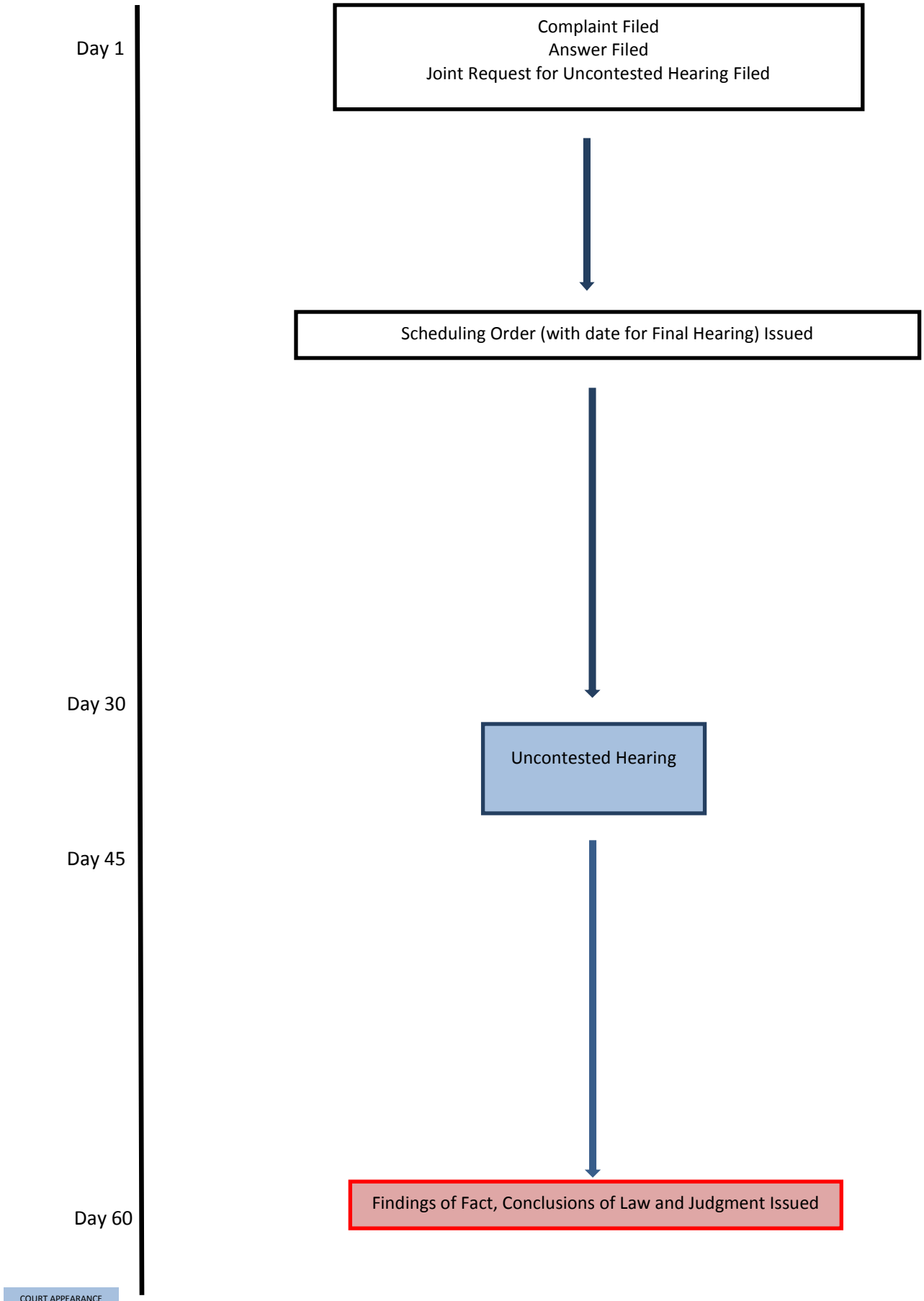
_____
Plaintiff/Defendant (signature)

_____
Street Address

_____
City, State and Zip Code

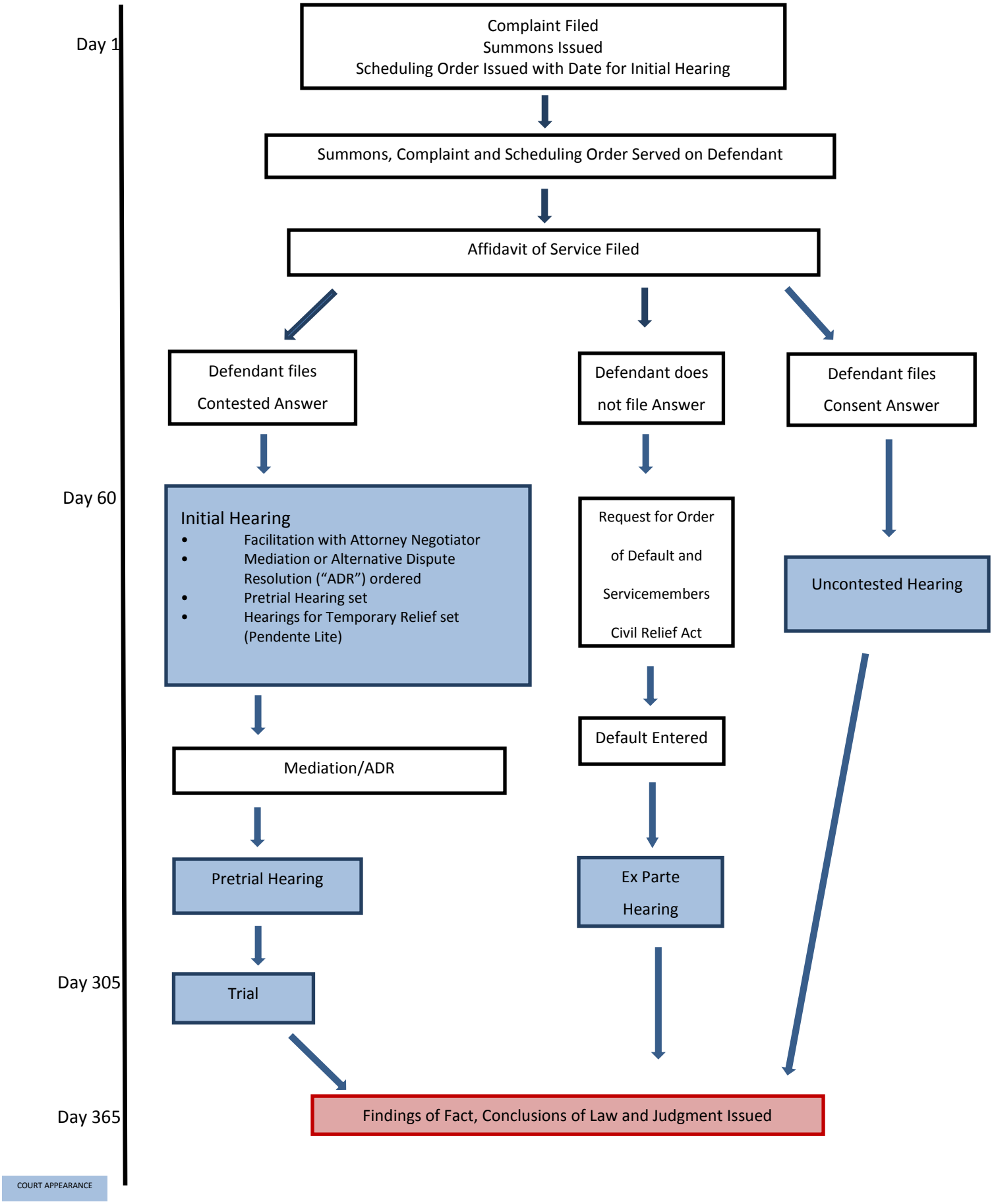
_____
Phone

Uncontested Divorce or Custody



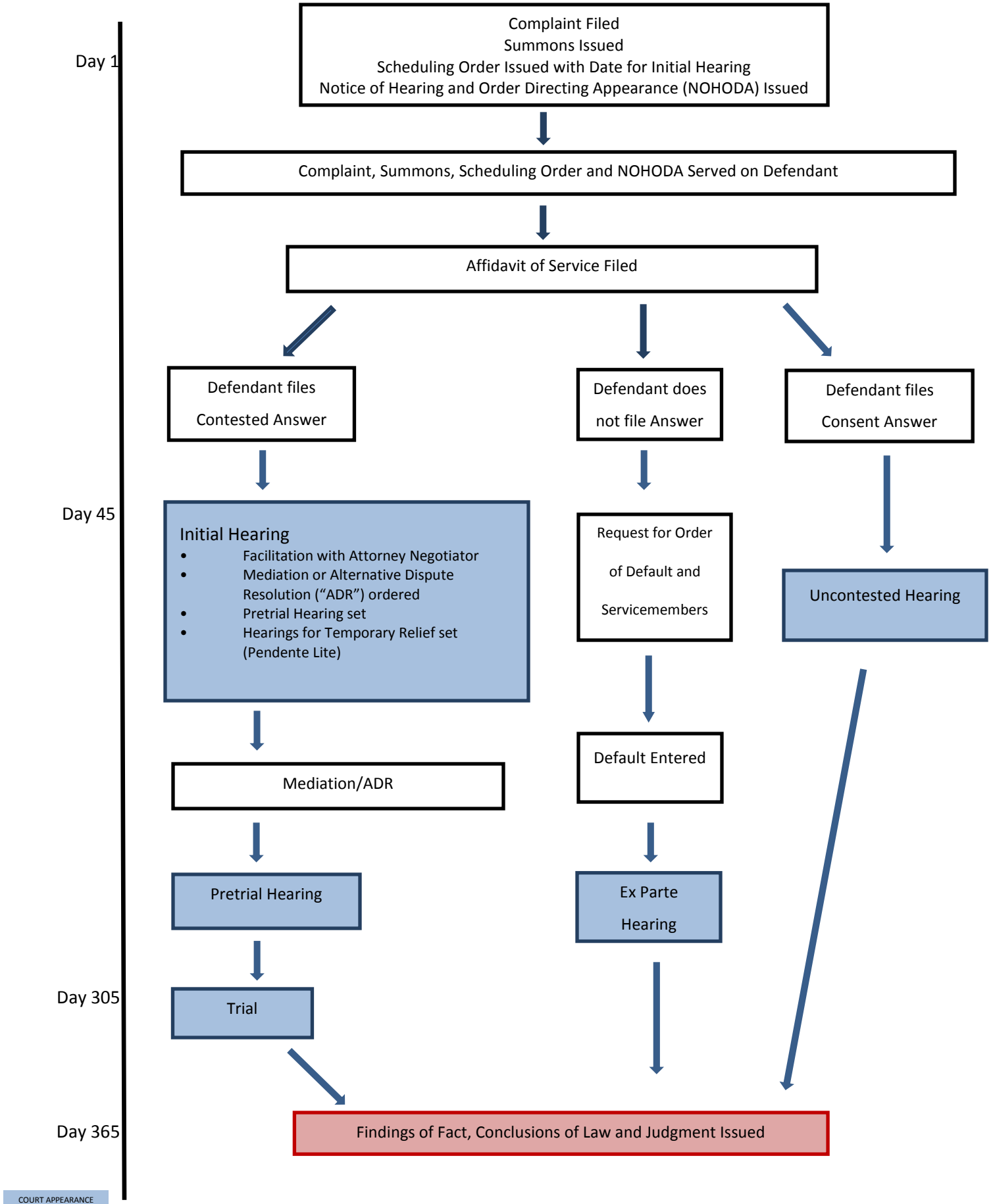
Domestic Relations I

Divorce and/or Custody without Child Support



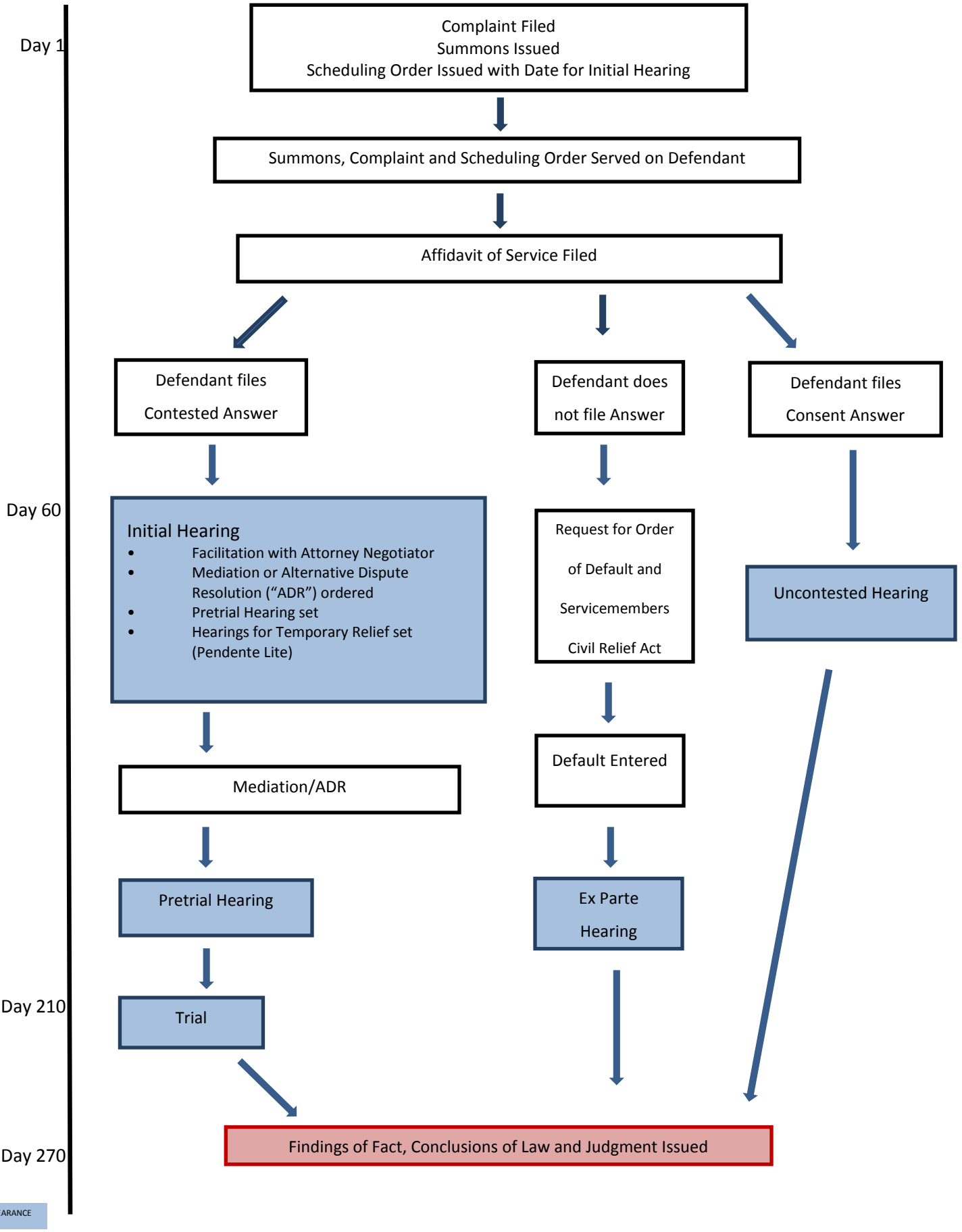
Domestic Relations I

Divorce and/or Custody with Child Support



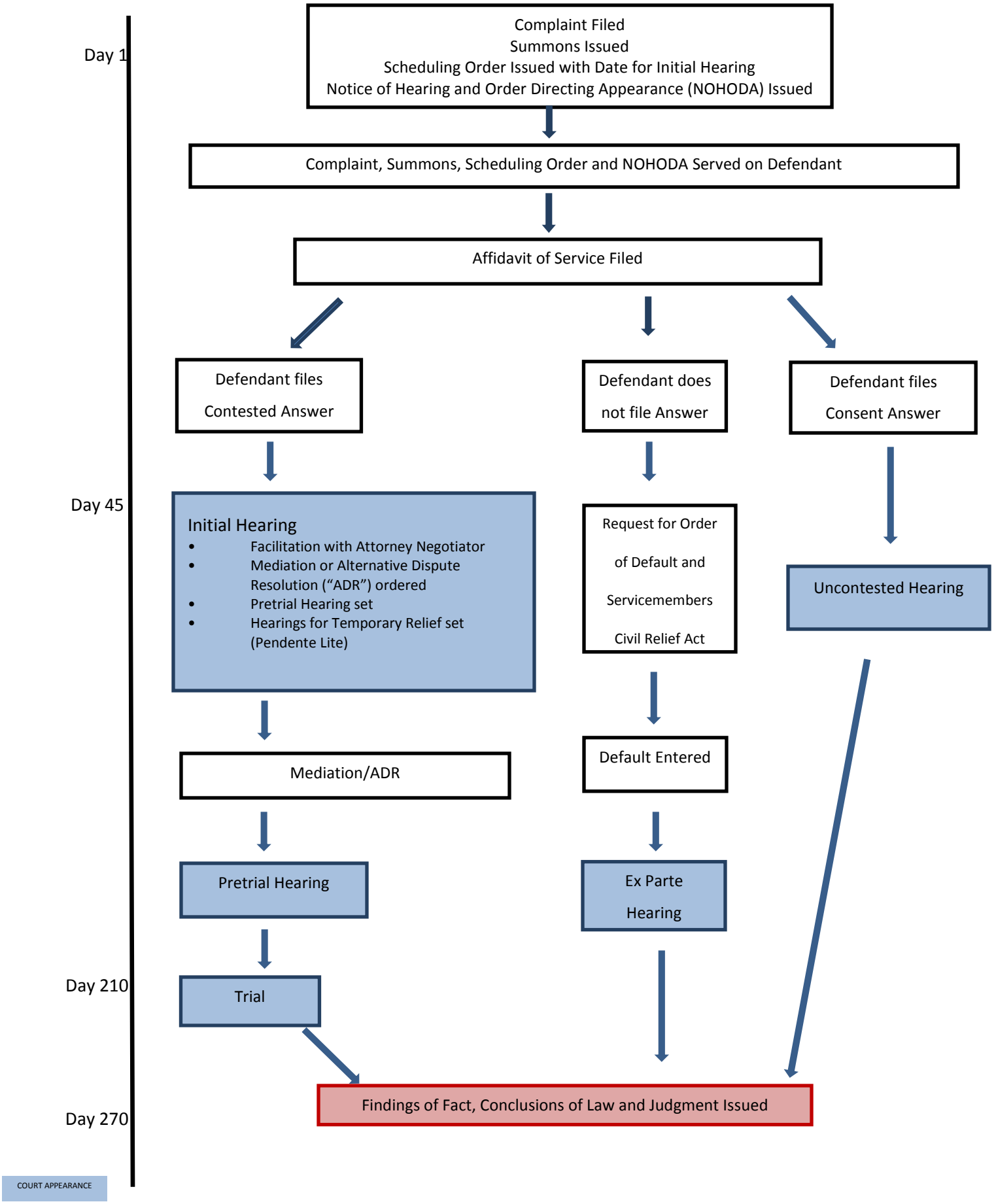
Domestic Relations II

Divorce and/or Custody: No Child Support



Domestic Relations II

Divorce and/or Custody with Child Support



Probate Division

District of Columbia Superior Court

Case Management Plan

Cases Involving the Deceased

- Large Estate Proceedings
- Small Estate Proceedings
- Foreign Estate Proceedings
- Wills
- Disclaimers

Cases Involving the Incapacitated

- Intervention Proceedings
- Interventions-Developmental Disability
- Foreign Intervention Proceedings
- Former Law Conservatorships
- Guardianships of Minor's Estates

Cases Involving Trusts

- Trusts
- Notice of Revocable Trusts

Major Litigation

LAST UPDATED 7/31/2014

Overview

Mission Statement

The mission of the Probate Division is to:

SERVE the court and the public in reaching a fair and timely resolution on all Probate cases;

PROTECT the financial interests of wards of the court and of beneficiaries in court-supervised estates;

ENSURE efficient and effective case management for all Probate cases;

PROVIDE the public with access in person, by telephone, by mail and via internet as appropriate - to information and public records; and

MAINTAIN a caring tradition of public service.

Purpose

The purpose of the case management plan is inform court staff and the public regarding the specific procedures of the Probate Division for each of its 13 case types, which are grouped in this case management plan as follows:

Cases Involving the Deceased—Large Estate Proceedings; Small Estate Proceedings; Foreign Estate Proceedings; Wills; and Disclaimers.

Cases Involving the Incapacitated—Intervention Proceedings; Interventions-Developmental Disability; Foreign Intervention Proceedings; Former Law Conservatorships; and Guardianships of Minor's Estates.

Cases Involving Trusts—Trusts and Notice of Revocable Trusts.

Major Litigation.

Goals

- To establish procedures for efficient and effective case processing for all Probate Division cases.
- To establish consistent expectations for participants in the court process.
- To resolve cases timely.

- To establish a system to hold internal and external consumers accountable for compliance.
- To enhance public confidence in the justice system.
- To protect the interests of the wards of the court and of beneficiaries in supervised estates.
- To empower the self-represented by providing *pro bono* legal services, referrals to community resources by the Guardianship Assistance Program, educational material online, and access by various mediums to information.

Benefits

- Accessibility of case management plans to court staff and the public provides transparency of standards and expectations of all court participants.
- Identification of internal and external resources promotes progress and enhances case flow.
- Serves as a fundamental tool for case processing, management, performance measurement and monitoring, and communication.
- Enhances learning environment for court staff and all court participants.

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Cases Involving the Deceased

Five distinct case types involve the estate of a deceased person:

1. Large Estate Proceedings (ADM)
2. Small Estate Proceedings (SEB)
3. Foreign Estate Proceedings (FEP)
4. Wills (WIL)
5. Disclaimers (DIS)

These cases generally account for roughly two-thirds of the Probate Division's active, open caseload. Each case type is addressed separately below.

LARGE ESTATE PROCEEDINGS (ADM)

When to Open

A large estate (ADM) case is opened when the **decedent**[1] owned real estate in the District of Columbia or other **assets**[2] of any value; to obtain medical records for any reason; or to pursue potential litigation.

The decedent must have been domiciled in the District of Columbia at the time of death.[3] If the estate is being opened to collect and transfer assets, the assets must have been owned in the decedent's name only (that is, the assets must not have joint owners or designated **beneficiaries**[4]).

Letters of administration[5] are issued to the **personal representative**,[6] whose **administration of the estate**[7] may be **supervised**[8] by the court or, if the decedent died on or after July 1, 1995, **unsupervised**.[9]

Large estates are governed by D.C. Code, sec. 20-101 *et seq.*

---

[1] The person who died is the "decedent."

[2] "Assets" are items that the decedent owned, including but not limited to money, real property, personal items, and debts owed to the decedent.

[3] However, the court may take jurisdiction over the estate of a non-domiciliary following the rationale of *Montgomery v. National Savings and Trust Co.,* 123 U.S. App. 53-55, in which the decedent left two wills—an Italian will to cover property in her place of domicile and an American will to dispose of property in America. In *Montgomery*, the court determined that special compelling circumstances were shown in that D.C. was the only place in the United States, if not the world, where probate was possible.

[4] A "beneficiary" includes a person named in a contract to receive a gift, such as the beneficiary of a life insurance contract.

[5] "Letters of administration" is a document issued by the Probate Division after the personal representative has been appointed that gives the personal representative the authority to act on behalf of the estate.

[6] A "personal representative" is a person appointed by a Judge of the Probate Division of the D.C. Superior Court to settle the affairs of someone who has died.

[7] "Administration of the estate" is the procedure established by the laws in the District of Columbia for identifying the decedent's assets, paying the decedent's debts, and distributing the remaining assets to the beneficiaries.

[8] "Supervision" means that the personal representative is required to file inventories and accounts with the court. The law requires that the court supervise the administration of all estates for decedents who died before July 1, 1995.

[9] In an "unsupervised" administration, inventories and accounts must be prepared by the personal representative, but they are not filed with the court. The law allows unsupervised administrations for cases in which the decedent died on or after July 1, 1995, unless a specific request for supervision is made.

How to Open

One of the following petitions may be filed to open a large estate:

1. Petition for Abbreviated Probate

   This petition is filed by a person having priority to serve as personal representative pursuant to D.C. Code, sec. 20-303.[10] Sometimes a person of lower priority may file for abbreviated probate in accordance with *In re James Kirkpatrick*, 1996 ADM 1638, by having as co-petitioner a person with highest priority to serve and filing **renunciations**[11] by all other "**interested persons**"[12] having higher priority.

   If a person died with a will,[13] the original of the will must be filed. Wills have no legal effect until admitted to probate. D.C. Code, sec. 20-302(a).

   Abbreviated probate requires publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs[14] once a week for three consecutive weeks in two newspapers[15] of general circulation in the District of Columbia, one of which must be a legal newspaper. D.C. Code, sec. 20-704(a). The only legal newspaper known to the Probate Division is the Washington Law Reporter; the petitioner must research and identify the second newspaper to be used. The Probate Division will transmit the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs to those newspapers via email after the personal representative is appointed. Proof of transmission by way of the sent email is imaged in the case docket. The newspapers bill the personal representative directly.

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[10] In testate cases (*i.e.*, where a decedent died with a will), the person nominated in the will to serve as personal representative has priority to file a petition for probate and serve as personal representative. If there is no will, the person who is the decedent's next of kin has priority to file a petition for probate to open the decedent's estate and serve as personal representative.

[11] Any person who has highest priority to serve and is choosing not to do so may sign a renunciation. The renunciation form is available on the Probate Division website. The renunciation is different from the consent (also available on website) in that the consent lacks the language that indicates that the person knows that he/she has higher priority to serve and is still choosing not to do so.

[12] "Interested persons" are defined in D.C. Code, sec. 20-101(d)(1) to include a personal representative nominated in a will; the court-appointed personal representative; a legatee; an heir; and a creditor of the decedent.

[13] A decedent died "testate" if the decedent's will is admitted to probate by the court. "Intestate" means the decedent died without a will.

[14] This publication serves as notice of the personal representative's appointment and establishes the deadline for filing a claim against the decedent's estate or an objection to the proceedings, such as a lawsuit to contest the validity of the will or to establish heirship.

[15] The court does not maintain a list of newspapers available for publication, and there is no application for newspapers to complete to be eligible to publish probate notices—D.C. Code, sec. 20-704(a) merely requires that a newspaper be of general circulation in the District of Columbia.

The Petition for Probate, Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs, will, and Certificate of Filing Will will be processed upon payment of the filing fee.[16] The fee varies depending on the value of the estate assets. SCR-PD 425.

2. Petition for Standard Probate
   A standard probate petition is filed by a person who is not in highest priority to serve or by a **creditor**[17] or when the will is irregular on its face (*e.g.*, the will is torn, contains cross-outs or handwritten editorials, or is a photocopy). Standard probate requires two publications. First, the Notice of Standard Probate, which is published before appointment of a personal representative so that interested persons have an opportunity to object to the appointment or to the relief requested, such as admission of a copy of a will. Second, the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs, which is published after the personal representative's appointment. SCR-PD 403(a) sets forth the filing requirements to complete the standard probate process.

   The Office of the Register of Wills monitors standard probate petitions through the use of alerts to ensure that they move forward to the appointment of a fiduciary. Each case is reviewed 60 days from filing, and if not completed a notice is issued to petitioners to complete standard probate within 14 days, and thereafter a recommendation to dismiss the case is submitted to the court if appropriate. This system ultimately assists in the timely disposition of these cases.

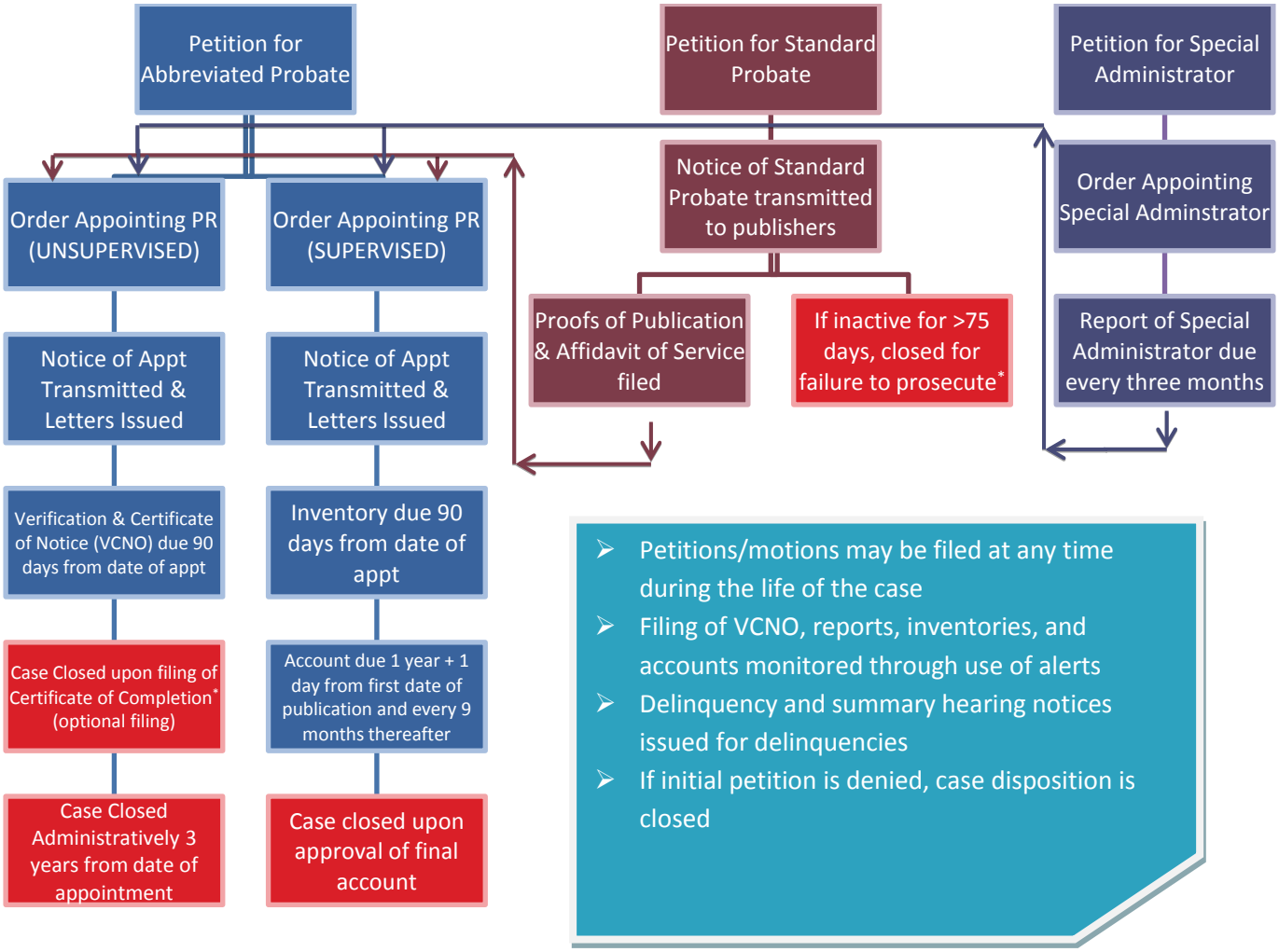
3. Petition for Appointment of Special Administrator to Open Safe Deposit Box
   The court may appoint a special administrator for the sole purpose of opening a safe deposit box to retrieve a will pursuant to SCR-PD 7.1.

4. Petition for Appointment of Special Administrator to Safeguard Assets until the Appointment of a Personal Representative
   The court may appoint a special administrator when necessary to protect assets prior to the appointment of a personal representative or a successor personal representative. D.C. Code, sec. 20-531(a). The

[16] A petitioner may seek waiver of the filing fee by filing with Judge-In-Chambers an Application to Proceed without Prepayment of Costs, Fees, or Security (In Forma Pauperis) pursuant to SCR-Civil 54-II. The Application to Proceed without Prepayment of Costs, Fees, or Security (In Forma Pauperis) is available on the Probate Division's website.
[17] A "creditor" is a person or organization owed money by the decedent. Creditors file petitions for standard probate, usually seeking the appointment of a disinterested member of the bar as personal representative. The creditor must guarantee payment of court costs and publication costs, attorney's fees, and, if the creditor is a bank, the creditor must file a board resolution and trustee praecipe.

appointment of a special administrator is intended to be a temporary protective measure.

Large Estates Case Flow



Forms

The forms to open a large estate differ depending upon the date of death of the decedent. Two sets of forms are available: those for deaths on July 1, 1995, to the present and those for deaths on and after January 1, 1981, through June 30, 1995. No forms are available for dates of death before January 1, 1981. Because those older cases may be complicated,[18] the policy of the Office of the Register of Wills is to recommend consultation with an experienced probate attorney to prepare the proper paperwork.

Assistance to Pro Se Parties

Probate Division staff cannot provide legal advice and, with the exception of small estate petitions, cannot assist in the completion of petitions. However, unrepresented persons may meet with an experienced volunteer attorney free of charge at the Probate Resource Center every Tuesday afternoon from 12:30 to 4:30 in Room 319 in the Probate Division. The volunteer attorneys provide guidance regarding the probate process, assist in the preparation of the petition for probate and related documents, inventories and accounts, and counsel customers regarding how to distribute assets to the estate's beneficiaries. The Probate Resource Center does not assist parties in preparing pleadings other than the standard forms used for probate administration (*i.e.*, no motions, complaints, etc.).

Where to File

Petitions to open large estates are filed at the Probate Division's Legal Branch, where an Assistant Deputy Register of Wills will review the petition to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements. After the petition is accepted for filing, the petition, including a draft order and the recommendation of the Office of the Register of Wills regarding the disposition of the petition, are transmitted to a judge. The Legal Branch's time standard is to submit the petition to court within 6 business days of filing.

The Court Order

An order signed by a judge is needed to admit the will to probate (if there is a will), appoint the fiduciary (*i.e.,* the personal representative or special administrator), determine whether the administration of the estate is to be supervised or unsupervised, approve or waive bond, and order payment of the allowances provided for by law, among other things.

[18] *E.g.*, in pre-1981 cases, the court did not have jurisdiction over real estate. Rather, title passed by operation of law to heirs unless realty had to be sold to pay the decedent's debts. D.C. Code, sec. 20-109.

1. Appointment of Fiduciary
   The court-appointed fiduciary must file an acceptance of appointment, consent to the jurisdiction of the court, a non-resident power of attorney (if applicable) that designates the Register of Wills for purposes of service of process, and a bond,[19] if needed. D.C. Code, secs. 20-303(b) and 20-501. Letters of administration cannot be issued to certain persons described in D.C. Code, sec. 20-303(b), such as felons and illegal aliens.

2. Admission of Will/Codicil
   Issues that may determine whether the will or a codicil to a will is admitted or denied admission to probate include:
   a. Execution—see D.C. Code, sec. 18-103.
   b. Attestation—*In re Estate of Sarah Ellen Henneghan*, 11-PR-360 (June 14, 2012) (2010 ADM 623).
   c. Copy or lost will—*Webb v. Lohnes*, 101 F.2d 242, 245 (1938), and *Clark v. Turner, et al.*, 87 U.S. App. D.C. 54, 183 F.2d 141 (1950).
   d. Additions, deletion, interlineations—may be explained by affidavit of witness and/or scrivener's affidavit.
   e. Will contest—must be addressed by complaint (filed in LIT case type). D.C. Code, sec. 20-305 and SCR-PD 107/407.
   f. International wills—require apostille and official translation to English by embassy official and memorandum.

3. Supervision of Estate Administration
   The administration of an estate may or may not be supervised. This decision depends on a number of facts such as the law at the time of decedent's death, whether the fiduciary is a personal representative or a special administrator, whether the bonding company requires supervision, or the amount of time between the decedent's death and the opening of the estate:

   a. Personal Representative: Supervised Administration
      Supervision is required when the decedent's date of death pre-dates July 1, 1995, or when the date of death is from July 1, 1995 to present and the court issues an order requiring supervision.

[19] Bond will protect the interest of estate beneficiaries—if the personal representative misappropriates or otherwise mishandles estate assets, the bonding company will repay the estate the amount lost or the amount of the bond, whichever is less. The amount of the bond purchased by the person who wishes to serve as personal representative does not include the share of anyone who has waived bond, so if the personal representative misappropriates or otherwise mishandles estates assets, anyone who waived bond will not receive a share of the bond payment.

Filing requirements
Supervised personal representatives must file with the court inventories and accounts, which are subject to audit.

i. Inventories are due for filing within 3 months of appointment. Proof of publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs must be filed with the inventory.

ii. The first account is due 1 year plus 1 day from the date of first publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs.

iii. Subsequent accounts are due every 9 months after the due date of the first account.

iv. Specific forms are required for the inventory and accounts. SCR-PD 109 and 409 & 114 and 414. Both are available on the Probate Division website.

v. Supervised personal representatives may file a waiver of filing inventory and accounts, which will convert the administration of the estate from supervised to unsupervised. SCR-PD 415. The waiver must be accompanied by (1) proof of publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs, and (2) the personal representative's verification and certificate required by SCR-PD 403(b)(4).

b. Personal Representative: Unsupervised Administration
Estates of decedents who died from July 1, 1995, to the present are not supervised unless ordered otherwise. D.C. Code, sec. 20-312(a).

Filing requirements
Unsupervised personal representatives must inventory assets and account to interested persons, but they are not required to file the inventory and accounts with the court. Instead, they must file a Verification and Certificate of Notice within 90 days of appointment, accompanied by proofs of publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs.

The Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs must be published once a week for three consecutive weeks concurrently in two newspapers of general

circulation in the District of Columbia. D.C. Code, sec. 20-704(a). This publication serves as notice of the personal representative's appointment and establishes the deadline for filing a claim against the decedent's estate or an objection to the proceedings, such as to contest the validity of the will or to establish heirship.

The personal representative should check the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs following the first date of publication to make sure that the notice is correct and, if corrections are needed, request republication[20] as soon as possible to meet the 90-day statutory standard.

c. Appointment of Special Administrator to Safeguard Assets
This type of special administrator must file an inventory, but is not required to file an account until a personal representative is appointed in the case. Until then, the special administrator must file a report every 3 months explaining the status of the assets and reasons why a personal representative has not yet been appointed. The filing of the special administrator's inventory, report, and final account is monitored by the use of alerts in the court's case management system.

d. Summary Hearings
Failure to file an inventory, account, the Verification and Certificate of Notice, or special administrator report is an irregularity that is brought to the attention of the court at summary hearing after notice to the fiduciary pursuant to SCR-PD 121 and 421.

Summary hearings for failure to file inventory, Verification and Certificate of Notice, and special administrator report are held on Mondays and Fridays. Summary hearings for failure to file accounts are held on Wednesdays. The policy of the Office of the Register of Wills is to recommend removal of non-compliant fiduciaries pursuant to SCR-PD 421 ("the Court shall set a summary hearing, direct notice to the person who has not remedied the irregularity and, at the hearing, remove the person and appoint a successor, unless for good cause shown, failure to correct the irregularity or default is deemed excusable").

[20] To request republication, the personal representative should file at the Probate Clerks' Office a praecipe indicating why republication is needed and attaching the corrected notice to be republished.

4. Bond
   The court order should address whether bond is required and, if so, in what amount, or waive bond.

   If there is no will or the will does not waive bond, the law of the District of Columbia requires that any person who wishes to serve as personal representative either obtain a signed, written waiver of bond from each interested person or buy a bond from a bonding company. The bond amount should include the total value of assets plus one year's income, generally calculated at 6% and rounded to the nearest $500.

   The powers that the personal representative has over an asset may be restricted by the court in the order if, for example, the personal representative cannot supply bond for the entire value of the estate. Prior court approval will be needed thereafter before the personal representative can transact any business with respect to that asset.

5. Allowances
   The court order should address allowances.

   If the decedent's date of death is from January 1, 1981, to April 26, 2001, decedent's spouse and minor children are entitled to the **family allowance**. D.C. Code, sec. 19-101 (1981 Ed., 1987 repl. vol.).

   If the date of death is from April 27, 2001 to present, the decedent's spouse/domestic partner, minor children, dependent children and adult children may be entitled to the **family, homestead and/or exempt personal property allowances**. D.C. Code, sec. 19-101.01 through 19-101.05 (2001 Ed., 2007 pocket parts). The following should be noted:

   a. *In re Brenda Jay*, 2006 ADM 1387, provides for payment of the homestead and exempt property allowances and a family allowance not to exceed $15,000 to the decedent's spouse even though there are adult children of the decedent who are not the children of the surviving spouse. When a minor child of the decedent lives with someone other than the decedent's surviving spouse, D.C. Code, sec. 19-101.04, provides that the family allowance may be made partially to the guardian or person having care, custody and control of the child and partially to the spouse "as their needs may appear."

b. The estate of a post-deceased spouse is entitled to the homestead and exempt property allowances.

c. If the decedent was not domiciled in the District of Columbia at time of death, the law of the domicile will govern allowances. D.C. Code, sec. 19-101.01.

Schedule of Mandatory Filings

A copy of the signed order will be mailed to the personal representative and his or her lawyer with letters of administration and a Schedule of Mandatory Filings, which provides the deadlines by which certain documents must be filed, such as the inventory and accounts (if the personal representative is supervised) or the Verification and Certificate of Notice (if the personal representative is unsupervised). The schedule was created to assist the fiduciary, particularly non-lawyer fiduciaries.

Duties

Once a person is appointed personal representative by the court, he or she must collect the decedent's assets, pay or resolve any claims or bills and the expenses of the estate proceeding, keep the interested persons informed of the progress of the estate administration, file the decedent's final tax returns, prepare an inventory and accounts, and distribute the assets to the persons entitled to receive them.

Administering an estate can be complicated. To assist the *pro se* fiduciary, the Probate Division created the following brochures, which are posted on the division's website:

- After Death - A Guide to Probate in the District of Columbia
- Filing for the Administration of a Decedent's Estate (ADM) in the District of Columbia
- Inventory and Accounting Guide
- When Someone Dies/Personal Affairs Record Book
- Accounting and Inventory (video)
- Record Keeping and Filing Duties (video)

Processing of Pleadings Subsequent to Appointment of Fiduciary

Various motions and petitions may be filed during the administration of a decedent's estate. The time standard for the Legal Branch and the Auditing Branch to process these filings for submission to court is generally 30 days from filing. This time period includes the response period as prescribed by

SCR-Civil Rule 12-I(e) plus a short period of time for the preparation of the recommendation on disposition and one or more proposed orders for the court's consideration.

Petitions for compensation are submitted to court and accounts are audited by the Auditing Branch 45 days from date of filing.

Special attention is recommended for the following pleadings:

1. Request for Extension of Personal Representative's Appointment.
   The appointment of an unsupervised personal representative will terminate 3 years from the date of appointment. If the administration of the estate cannot be completed before that time, the personal representative may request a 12-month extension of appointment pursuant to SCR-PD 429 without prior notice to interested persons.

2. Re-opening of estate.
   Petitions to re-open an estate are filed when a case was closed by the filing of a Certificate of Completion in an unsupervised estate, when a final account was approved in a supervised estate, or when the appointment of a successor personal representative is sought.

3. Fee petitions.
   Fee petitions are required for estates of decedents who died before July 1, 1995. The rate of compensation is set by SCR-PD 124 generally at 4.5% to 8% of the assets and income of the estate for the combined fee of the personal representative and the attorney for the personal representative.

   Fee petitions are not required for estates of decedents who died from July 1, 1995 to the present. Compensation must be "reasonable." Judicial review of the reasonableness of compensation claimed or paid may be requested by an interested person through the filing of an objection or a petition.

Termination of Appointment

1. The appointment of an **unsupervised personal representative** terminates by either the filing of a Certificate of Completion or, if none is filed, 3 years after the date of the personal representative's appointment. D.C. Code, sec. 20-1301(b)(c).

2. In a **supervised estate**, the approval of the final account will close the case. The personal representative must petition to terminate his or her appointment. D.C. Code, sec. 20-1301(a).

3. The appointment of a **special administrator appointed to open a safe deposit to retrieve the will** generally terminates 30 days after the appointment or earlier, if a will is located in the safe deposit box and filed with the court.

4. The appointment of a **special administrator appointed to marshal and protect assets** terminates upon approval of the special administrator's final account.

Performance Measures

The court's time-to-disposition standard calls for the closure of large and small estate proceedings as follows:

- 30% within 395 days from filing
- 75% within 1125 days from filing
- 98% within 1490 days from filing.

SMALL ESTATE PROCEEDINGS (SEB)

When to Open

A small estate (SEB) case may be opened for a person domiciled in the District of Columbia who died after April 26, 2001, with assets having a total value of $40,000.00 or less[21] in his or her sole name and/or real estate only in another jurisdiction. A personal representative will be appointed by the court to marshal assets, pay claims, and make distribution. Letters of administration are not issued in small estate cases. Instead, a final order is issued by the court that specifically identifies the decedent's assets, authorizes the release of the assets to the personal representative, and directs how distribution, including payment of claims, if any, is to be made. Small estate proceedings generally take no more than 150 days from the date of filing of the petition to the issuance of the final order.

Small estates are governed by D.C. Code, secs. 20-351 through 20-357.

How to Open

A petition for administration of small estate may be filed by a person having priority to serve as personal representative pursuant to D.C. Code, sec. 20-303.[22] Sometimes a person of lower priority may file for abbreviated probate in accordance with *In re James Kirkpatrick*, 1996 ADM 1638, by having as co-petitioner a person with highest priority to serve and filing renunciations[23] by all other "interested persons[24]" having higher priority.

Standard probate is needed when the petitioner does not have the highest priority to serve or is a creditor or when the will is irregular on its face. Standard probate requires publication of the Notice of Standard Probate.

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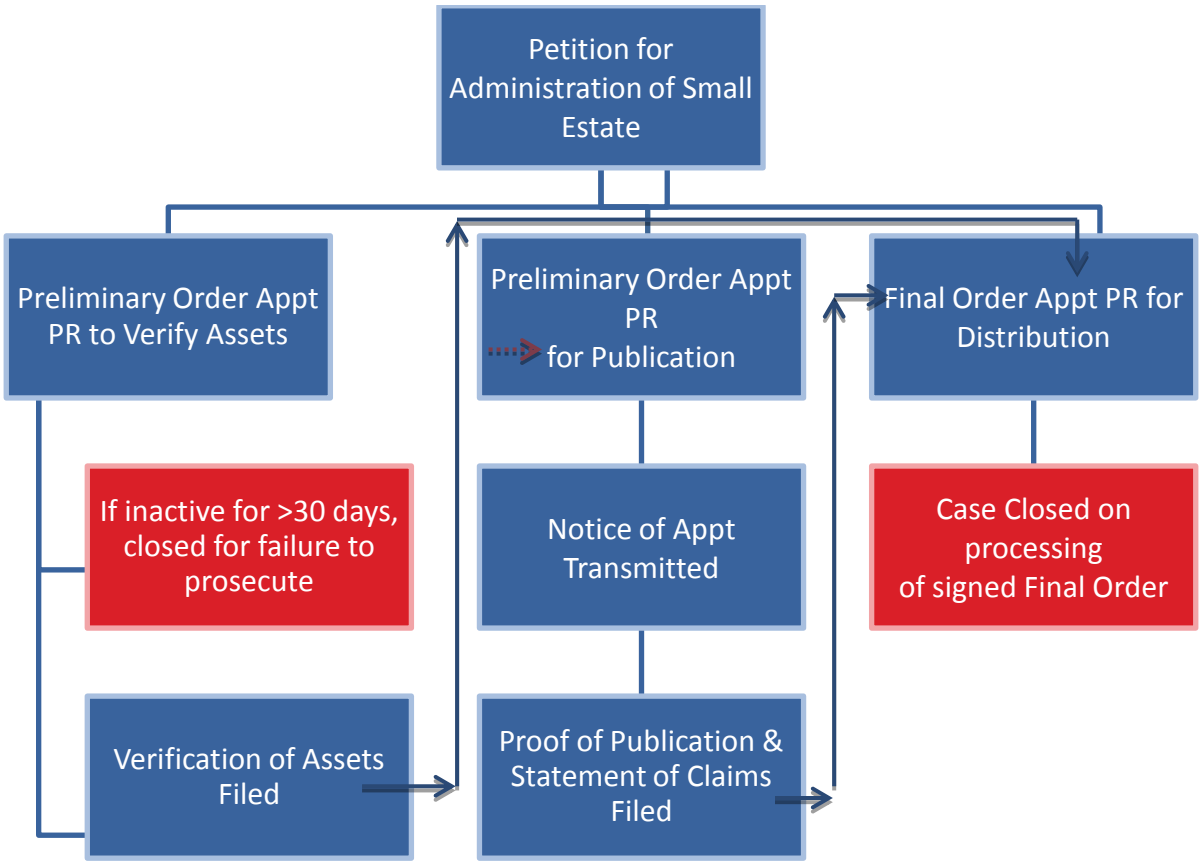
[21] If the person died between July 1, 1995, and April 26, 2001, the value of the estate must be $15,000.00 or less to qualify as a small estate. If the person died between January 1, 1981, and June 30, 1995, the value of the estate must be $10,000 or less.

[22] In testate cases (*i.e.*, where a decedent dies with a will), the person nominated in the will to serve as personal representative has priority to file a petition for probate and serve as personal representative. If there is no will, the person who is the decedent's next of kin has priority to file a petition for probate to open the decedent's estate and serve as personal representative.

[23] Any person who has highest priority to serve and is choosing not to do so may sign a renunciation. The renunciation form is available on the Probate Division website. The renunciation is different from the consent (also available on website) in that the consent lacks the language that indicates that the person knows that he/she has higher priority to serve and is still choosing not to do so.

[24] "Interested persons" are defined in D.C. Code, sec. 20-101(d)(1) to include a personal representative nominated in a will; the court-appointed personal representative; a legatee; an heir; and a creditor of the decedent.

Small Estate Case Flow



- Petitions/motions may be filed at any time during the life of the case
- Filing of verification of assets monitored through use of alerts

Forms

The petition for administration of small estate is available on the Probate Division's website, as well as a list of items the filer will need to bring at the time of filing, such as the death certificate, the funeral bill (with receipts), and proof of assets and debts. The filing fee depends on the value of the estate. SCR-PD 425.

Assistance to Pro Se Parties

Because small estate cases may be complicated and are designed to open and close quickly, small estate specialists are available in the Legal Branch of the Probate Division to assist with the preparation of the petition.

Where to File

Petitions to open small estates are filed at the Probate Division's Legal Branch, where a small estate specialist will review the petition to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements. After the petition is accepted for filing, the petition, including a draft order and the recommendation regarding the disposition of the petition, are transmitted to a judge. The Legal Branch's time standard is to submit the petition to court within 15 days of filing.

The Court Order

One of three court orders may issue in response to a petition to open a small estate:

1. Preliminary Order for Verification of Assets
   If the petitioner does not have access to the decedent's safe deposit box or any or all of the information needed to confirm the decedent's ownership of certain assets or the value of those assets, the court may appoint a special administrator with authority to receive that information. The special administrator must file a Verification of Assets (and copies of the bank statement or other evidence of value) by the deadline specified by the court, usually 30 days. Failure to file the verification may result in the dismissal of the small estate petition and closure of the case.

2. Preliminary Order for Publication
   The facts of the case may call for the appointment of a personal representative and the publication of the Notice of Appointment, Notice to

Creditors and Notice to Unknown Heirs[25]. This decision depends on who survived the decedent and the value of the estate:

a. If decedent is survived by spouse or minor children, publication is not required because there will be no assets remaining after reimbursement of court costs and funeral expenses and payment of attorney's fees (if any) and the homestead, family, and exempt property allowances. This is because the maximum value of a small estate ($40,000.00) is equal to the sum of these three allowances.

b. If decedent is survived by adult children only:
   i. Publication is not required if assets are valued at or under $11,550.00 because there should be no assets remaining after reimbursement of court costs and funeral expenses and payment of attorney's fees (if any) and the exempt property allowance.
   ii. Publication is required if assets are valued in excess of $11,550.00.

c. If the decedent is not survived by spouse or children:
   i. Publication is not required if the assets are valued at or under $1,500.00, because there should be no assets remaining after reimbursement of court costs and funeral expenses, and payment of attorney's fees (if any).
   ii. Publication is required if the assets exceed $1,500.00.

d. Publication costs must be submitted to the small estate specialist at the time of filing. The Office of the Register of Wills will arrange for the transmission of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs and forward the payment of publication costs to the newspapers.

When publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs is necessary, the court will issue an order appointing a personal representative and requiring publication.

[25] D.C. Code, sec. 20-704 requires personal representatives to mail by registered or certified mail to the heirs, legatees, and creditors of the decedent a copy of the notice. However, to ensure that mailing occurs, the policy of the Office of the Register of Wills is for the Legal Branch to mail the notice on their behalf. The proofs of publication of the notice are mailed directly to the small estate specialist who, as a courtesy, collects payment of publication costs from the petitioner at the time of filing.

3. Final Order
   The final order provides authority to the personal representative to collect specific assets and to transfer or distribute them to specific persons.

   If a person died with a will, the original of the will should be filed. However, the will will be admitted to probate only if assets remain after reimbursement of funeral expenses and payment of any allowances in accordance with D.C. Code, sec. 20-353(a)(4).

Performance Measures

The court's time-to-disposition standard calls for the closure of large and small estate proceedings as follows:

- 30% within 395 days from filing
- 75% within 1125 days from filing
- 98% within 1490 days from filing.

FOREIGN ESTATE PROCEEDING (FEP)

When to Open

A foreign estate (FEP) case may be opened for persons who died after December 31, 1980, domiciled outside of the District of Columbia but owning assets in the District of Columbia at time of death. The personal representative appointed by the court in the jurisdiction of domicile must open a foreign estate proceeding in the District of Columbia before that person will have authority to collect and distribute any of the assets located in the District of Columbia. Because the primary estate is not being opened in the District of Columbia, a personal representative is not appointed in D.C. and letters of administration are not issued.

Foreign estates are governed by D.C. Code, secs. 20-341 through 20-344.

How to Open

The foreign personal representative must file the following documents:

1. If the estate has been opened in the United States, recent[26] copies of the documents filed in the other jurisdiction, including the petition, the will (if any), the order of appointment, and letters of administration, authenticated pursuant to 28 U.S. Code, sec. 1738. Such authentication is commonly referred to as a "triple-sealed" or "exemplified" copy. (Certified copies are not acceptable.)

   If the estate has been opened in another country, the same documents are required and must be authenticated in accordance with the provisions of SCR-Civil Rule 44(a)(2), which requires that a certificate known as an apostille be affixed or attached to the document. For countries belonging to the *Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents*, foreign documents certified by an apostille are entitled to recognition without further authentication.

2. Appointment of Agent to Accept Service of Process form with the original signature of each personal representative and an original signature of the agent located in the District of Columbia. This document must be filed even if one or all of the personal representatives live or work in the District of Columbia and is willing to act as agent.

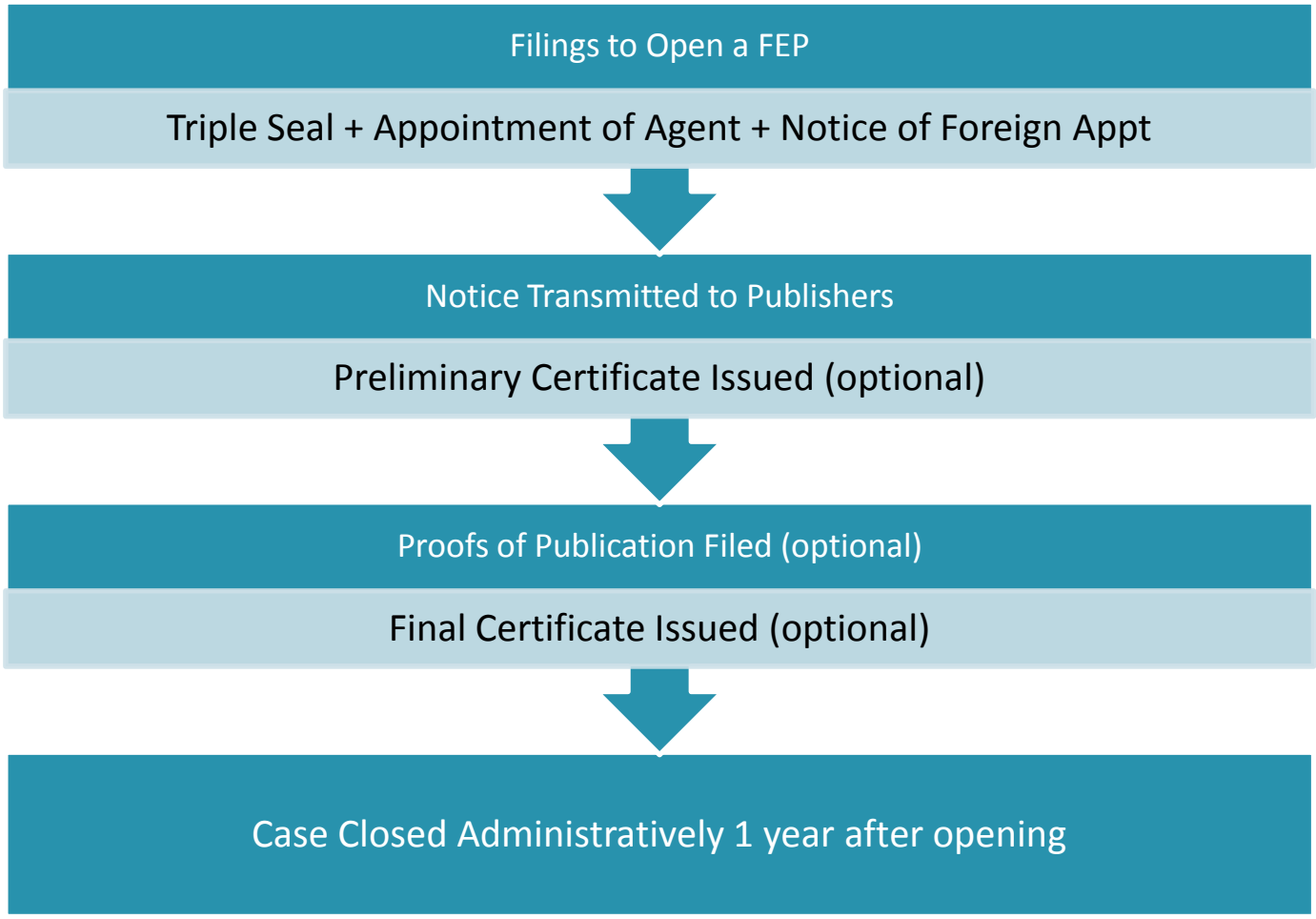
3. Notice of Appointment of Foreign Personal Representative and Notice to Creditors with the original signature of each personal representative.

[26] Dated within 60 days of filing with the Probate Division.

The notice will be published once a week for three consecutive weeks in two newspapers of general circulation in the District of Columbia, one of which must be a legal newspaper. D.C. Code, sec. 20-343(a). The only legal newspaper known to the Probate Division is the Washington Law Reporter; the petitioner must research and identify the second newspaper to be used. The Probate Division will transmit the Notice of Appointment of Foreign Personal Representative and Notice to Creditors to those newspapers via email. Proof of transmission by way of the sent email is imaged in the case docket. The newspapers bill the personal representative directly.

The foreign estate case will be opened upon filing of these items and payment of the $25.00 filing fee.

Foreign Estate Proceeding Case Flow



- Petitions/motions and claims may be filed at any time during the life of the case

Forms

The Appointment of Agent to Accept Service of Process and the Notice of Appointment of Foreign Personal Representative and Notice to Creditors are available on the division's website.

Where to File

Documents to open foreign estate cases are filed at the Probate Division's Legal Branch.

If the documents are accepted for filing and the filing fee is paid, the Probate Division will transmit the Notice of Appointment of Foreign Personal Representative and Notice to Creditors to the two publications chosen by the filer. The filer can request a Preliminary Certificate, which costs $1.00. The Preliminary Certificate verifies that the authenticated papers have been filed and a foreign estate has been opened.

If no claims[27] are filed, the Probate Division will issue a Final Certificate (also known as a "Certificate of No Claims") after the six-month period set forth in the Notice of Appointment of Foreign Personal Representative and Notice to Creditors and the filing of the original proofs of publication with the Probate Division upon request and the payment of a $10.00 fee. D.C. assets ordinarily cannot be removed or transferred until after the six-month notice period has expired, the proofs of publication have been filed, and a Final Certificate has been obtained unless bond has been posted. D.C. Code, sec. 20-343 sets forth special requirements for transferring assets before the six-month period has expired.

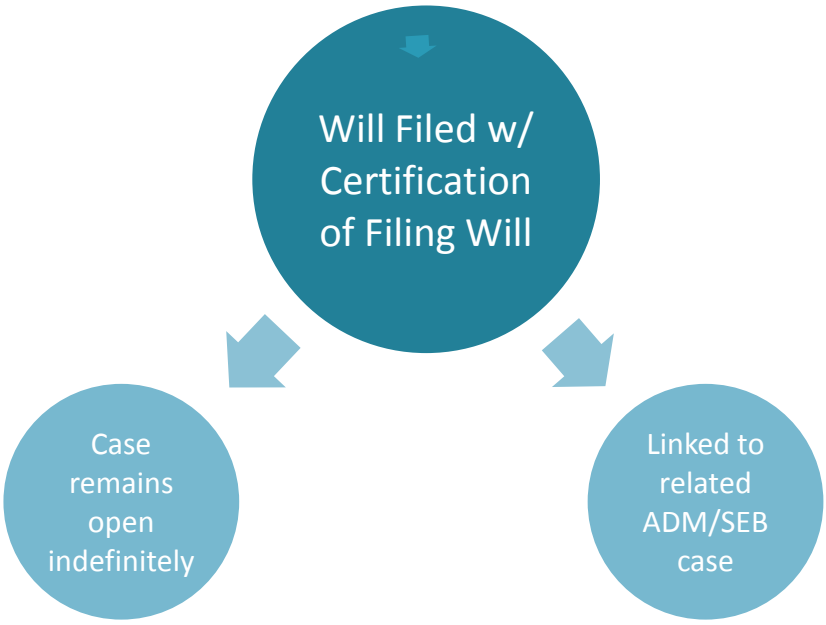
[27] D.C. Code, sec. 20-343(d) establishes the right of creditors to file claims in a foreign proceeding. Where no claim has been filed in the foreign proceeding, the following Court of Appeals' decisions suggest that the court can entertain such claims: *Estate of Francisco Coll Monge*, 02-PR-456, decided February 5, 2004 (found that 106 persons who filed claims in an estate proceeding in Puerto Rico had the same status with regard to distribution of the proceeds of an asset in D.C. as a person who filed and perfected her claim in the foreign estate proceeding in D.C.); and *Richard v. McGreevy*, 136 DWLR 170 at pp. 1917-1919 (D.C. 9/2/08)(found that a creditor or claimant may file suit in D.C. against a foreign personal representative if the foreign personal representative has actual knowledge of a claim barred in another jurisdiction that does not rise to the level of a "final judgment" under the Full Faith and Credit Clause of the United States Constitution).

How, When and Where to Open

A will (WIL) case is opened when a will is filed with the Probate Division's Probate Clerk's Office after the death of the testator.[28] The will should be original and executed in accordance with the law of the District of Columbia, including Title 18 of the District of Columbia Code. A copy of the will may be filed where the original is not available. The will should be filed within 90 days after the death of the testator with a Certificate of Filing Will. An Affidavit of Witness may be filed to explain any irregularity contained in the will. The will, the Certificate of Filing Will, and the Affidavit of Witness are filed in a WIL case jacket, assigned a WIL case number, and linked to the applicable decedent's estate case type.

Wills have no legal effect until admitted to probate by a court order. D.C. Code, sec. 20-302(a).

Will Case Flow



- If misfiled, filer may seek Court order to transfer will to another jurisdiction.

[28] "Testator" is a person who died having created a will prior to death.

DISCLAIMERS (DIS)

When to Open

D.C. Code, sec. 19-1502 defines a disclaimer as the refusal to accept an interest in or power over property. The effect of a disclaimer is to extinguish the interest in a property as if it had never been granted and to allow the interest to pass to an alternate beneficiary. The law regarding disclaimers may be found in Title 19 of the D.C. Code, Chapter 15.

Disclaimer (DIS) cases remain open indefinitely.

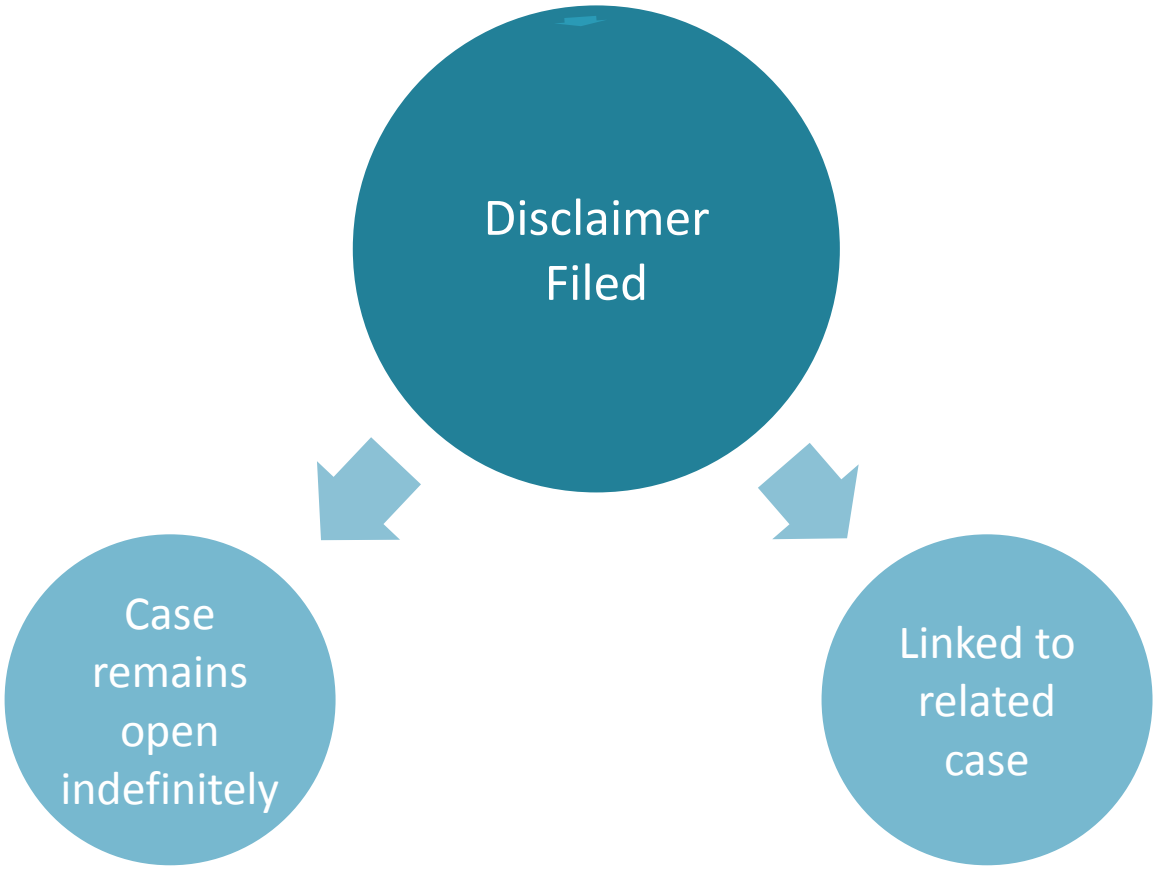
How to Open

The filing of a disclaimer in the Probate Division opens a DIS case. There is no disclaimer form and there are many types of interests that may be disclaimed. The filer does not have to wait until a decedent's estate is opened in order to file a disclaimer.

The disclaimer must:

1. Be in a writing or other record;
2. Declare the disclaimer;
3. Describe the interest or power disclaimed;
4. Be signed by the person making the disclaimer;
5. Be delivered or filed in the manner provided by D.C. Code, sec. 19-1512;
6. Include the telephone number and street address of the person who is disclaiming; and
7. Be filed with a Certificate of Filing Disclaimer, which is available on the Probate Division's website.

Disclaimer Case Flow



Where to File

The disclaimer and Certificate of Filing Disclaimer are reviewed by the Probate Division's Legal Branch, where an Assistant Deputy Register of Wills will ensure that they comply with minimum legal requirements. Once accepted for filing, the Probate Clerk's Office will perform a search to determine whether an estate case has been filed and, if so, will link the DIS case to the estate case and enter a copy of the disclaimer into the docket in the estate case.

Cases Involving the Incapacitated

Five distinct case types involve the incapacitated:

1. Intervention Proceedings (INT)
2. Intervention/Developmental Disability (IDD)
3. Former Adult Conservatorships (CON)
4. Foreign Intervention Proceedings (FOI)
5. Guardianships of Minor's Estates (GDN)

These cases generally account for roughly one-third of the Probate Division's active, open caseload. Each case type is addressed separately below.

INTERVENTION PROCEEDINGS[29] (INT and IDD)

When to Open

An intervention (INT) case is opened for a person 18 years of age or older who lives in the District of Columbia, is alleged to be incapacitated and in need of the assistance of a **guardian**[30] or a **conservator**[31] or both. Family members, friends, hospitals, and other persons interested in the welfare of the allegedly incapacitated person may file the petition for general proceeding.

Intervention/Developmental Disability (IDD) cases are opened when petitions for the appointment of a health care guardian are filed by the District of Columbia Department of Disability Services (DDS) and others for DDS consumers who are believed to be incapacitated and in need of a guardian for health care decisions only. Conservators are not usually appointed in IDD cases.

How to Open

One of the following petitions may be filed to open an INT/IDD case:

1. Petition for Temporary Guardian
   A petition for appointment of temporary guardian may be filed when an allegedly incapacitated adult is experiencing a life-threatening situation or a situation involving emergency medical care. The incapacity of the subject must be certified by two professionals, one of whom must have examined the subject within one day preceding the certification in accordance with D.C. Code, sec. 21-2204.

   There are three kinds of temporary guardians:
   - an emergency 21-day guardian
   - a temporary 90-day health care guardian for as long as 180 days, and
   - a provisional guardian for as long as six months.

   D.C. Code, sec. 21-2046 and SCR-PD 341.

[29] As of March 31, 2014, approximately 2,909 intervention proceedings are pending before the Probate Division. It is noted that the number of new case filings has grown significantly in recent years.

[30] A guardian is responsible for making health care, quality of life, placement (housing), and legal decisions for the ward. The guardian is required to visit the ward monthly and to file a detailed report of the ward's status every six months.

[31] A conservator manages the income or assets of the ward for the support, care, and welfare of the ward so that they will not be wasted or dissipated. The conservator is required to file an account annually, which is subject to a comprehensive audit.

The petition for temporary guardianship is reviewed by the Probate Division's Legal Branch to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements. If accepted for filing, the petition for an emergency 21-day guardian or a temporary 90-day health care guardian is docketed and scanned at the Probate Clerk's Office and the petitioner is then directed to the Office of Judge-in-Chambers, 500 Indiana Ave., NW, Room 4220, for an expedited hearing. Petitions for provisional guardians are heard as soon as possible by the assigned Probate Division case judge.

Forms:
The Petition for Appointment of Temporary Guardian and Order Appointing Temporary Guardian are posted on the Probate Division's website.

2. Petition for General Proceeding
The petitioner must file a petition for a general proceeding to appoint a guardian and/or conservator. The petitioner is encouraged to provide medical evidence of incapacity by attaching medical records or examiner reports[32] to the petition for general proceeding. The *Notice of Initial Hearing* should be filed with the petition for general proceeding and draft orders appointing counsel and if appropriate, an **examiner**,[33] a **guardian *ad litem***,[34] and/or a **visitor**.[35]

Forms:
The forms needed to open an intervention proceeding are listed and posted on the Probate Division's website. They include:

- Petition for a General Proceeding
- Order Appointing Counsel, Examiner, Visitor and/or Guardian *ad litem*
- Order Appointing Counsel (subject outside the metropolitan area)
- Notice of Initial Hearing for Subject

[32] Sensitive information and documents such as medical records are placed in the public record unless sealed by court order. The petitioner may request protection in the petition for general proceeding or in a motion to seal. A form motion to seal has been created and placed on the court's website as a courtesy to the public.
[33] An examiner is defined in D.C. Code, sec. 21-2011(7) as an "individual qualified by training or experience in the diagnosis, care, or treatment of the causes and conditions giving rise to the alleged incapacity, such as a gerontologist, psychiatrist, or qualified mental retardation professional."
[34] A guardian *ad litem* helps the subject determine the subject's interests in regard to the petition for a general proceeding. If the subject is unconscious or otherwise wholly incapable of determining his or her interests even with assistance, the guardian *ad litem* makes that determination.
[35] A visitor is an officer, employee, or special appointee of the court who has no personal interest in the proceeding and who serves as an independent investigator, reports to the court on the subject's current situation and living conditions, and provides an opinion regarding the circumstances surrounding the subject. D.C. Code, sec. 21-2011(7).

- Notice of Initial Hearing for Parties
- Personal Identification Information (Form 26)[36]
- Financial Account Information (Form 27)[37]

There is no filing fee for a petition requesting the appointment of a guardian. There is a filing fee of $45.00 if a conservator or protective order is requested.[38]

When the petition for a general proceeding is filed, it is reviewed by the Probate Division's Legal Branch to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements. After the petition is accepted for filing, the filer will go to the Probate Clerk's Office to obtain a hearing date, which is generally set within 30 to 45 days. The petition then is transmitted by the Legal Branch to a judge for appointment of counsel for the subject and, if necessary, the appointment of examiner, visitor and/or guardian *ad litem*. The Legal Branch's time standard is to submit the petition to court within 6 business days of filing.

3. Petition for Temporary Relief

In situations involving financial abuse, the petitioner may request temporary relief in the petition for general proceeding "to preserve and apply the property of the individual to be protected as may be required for support of the individual or dependents of the individual" in accordance with D.C. Code, secs. 21-2044(d) and 21-2055(b)(1). Details that support the allegation of financial abuse should be provided so that the judge may determine if an earlier hearing is warranted. If ordered, a hearing on temporary relief will be scheduled between the time of filing and the hearing already scheduled regarding the petition for general proceeding.

Forms:

The Petition for General Proceeding and Order Regarding Temporary Relief Request are posted on the Probate Division's website.

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[36] Required by Administrative Order 04-14 (June 23, 2004).

[37] SCR-PD 5.1(1)(c).

[38] A petitioner may seek waiver of the $45.00 filing fee by filing an Application to Proceed without Prepayment of Costs, Fees, or Security (In Forma Pauperis) pursuant to SCR-Civil 54-II. The Application to Proceed without Prepayment of Costs, Fees, or Security (In Forma Pauperis) is available on the Probate Division's website. The petitioner should bring the Application and the petition requesting appointment of a conservator or a protective order to an Assistant Deputy Register of Wills in the Legal Branch for review. The petitioner will then be directed to the Office of Judge-in-Chambers, 500 Indiana Ave., NW, Room 4220, for an expedited hearing.

4. Petition Regarding a Missing, Disappeared, or Detained Person
   Though rarely filed, a petition to appoint a conservator or for a protective order may be filed for a "missing person," defined as a person detained by a foreign power or by someone other than a foreign power or for a person who has disappeared. D.C. Code, sec. 21-2051(b) and SCR-PD 350(a). The petition may be filed by any person interested in the estate, affairs, or welfare of the missing person. SCR-PD 350(b).

   Forms:
   The following forms are posted on the Probate Division's website:

   - Petition Regarding a Missing, Disappeared, or Detained Person
   - Order Setting a Hearing and Directing Publication of Notice of Hearing on Petition Regarding a Disappeared, Missing, or Detained Person
   - Notice of Hearing on Petition for Appointment of a Conservator or Entry of a Protective Order
   - Personal Identification Information (Form 26)
   - Financial Account Information (Form 27)

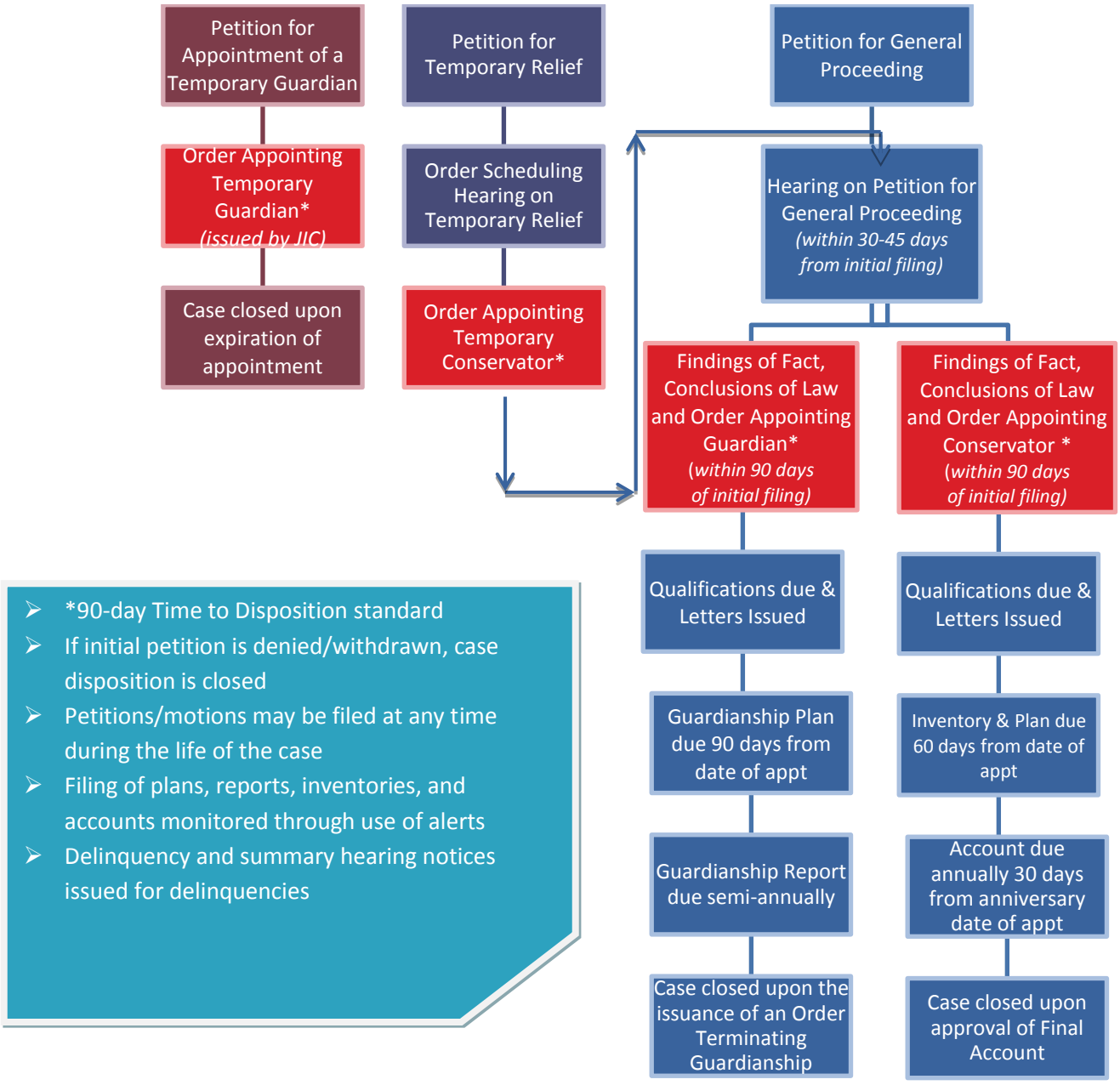
Performance Measures

The court's time-to-disposition standard calls for the resolution of the petition for general proceeding filed in an INT/IDD case by the withdrawal of the petition, the appointment of a fiduciary, or the denial of the petition and the dismissal of the case as follows:

- 75% within 60 days from filing
- 98% within 90 days from filing.

For cases that are set for trial, the court's goal is to hold the trial on the first date that a trial is scheduled, and to grant trial continuances only upon a showing of good cause. In so doing, the court seeks to establish credible trial dates, to encourage proper preparation by all parties, to help to assure effective use of court resources, and to further the interests of litigants and the public in the timely and just resolution of all cases.

Intervention Proceedings Case Flow



- *90-day Time to Disposition standard
- If initial petition is denied/withdrawn, case disposition is closed
- Petitions/motions may be filed at any time during the life of the case
- Filing of plans, reports, inventories, and accounts monitored through use of alerts
- Delinquency and summary hearing notices issued for delinquencies

Assistance to Pro Se Parties

Probate Division staff cannot provide legal advice and cannot assist in the completion of petitions. However, unrepresented persons may make an appointment to meet with a volunteer attorney free of charge at the Probate Resource Center every Wednesday afternoon in Room 301 in the Probate Division. Experienced volunteer lawyers assist in the preparation of petitions for general proceeding to open a case and petitions post-appointment to raise issues in pending cases. To request an appointment, contact the Probate Clerk's Office at 202-879-9460 or the Information Desk clerk at 202-879-9476. Persons seeking assistance from the Probate Resource Center are limited to two appointments.

Where to File

Petitions for general proceeding, temporary guardianship, temporary relief, and petitions regarding a missing, disappeared, or detained person are filed at the Probate Division's Legal Branch, where an Assistant Deputy Register of Wills will review the petition to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements.

Pre-hearing Orders

1. Order appointing counsel

   The subject of an intervention proceeding is entitled to counsel. D.C. Code, secs. 21-2041(d) and 21-2054(a). Accordingly, every petition to open an intervention proceeding that is submitted to court is accompanied by an order appointing counsel. Usually, counsel is appointed from the Fiduciary Panel, which is a list of attorneys available for appointment to serve as fiduciaries, counsel, guardian *ad litem,* or visitors in the Probate Division. The court-appointed counsel is expected to file a praecipe or notice entering his or her appearance.

   The subject of the proceeding may choose to retain counsel. Retained counsel must file a praecipe or notice entering his or her appearance that should state whether counsel was retained subsequent to the appointment of counsel by the court. It must be served on all persons entitled to notice, court-appointed counsel, and any court-appointed examiner, visitor, and/or guardian *ad litem*. Unless an objection is filed to retained counsel's notice of appearance within 10 days of filing, his or her appearance is effective in 10 days and the appearance of court-appointed counsel is terminated. SCR-PD 305(b).

The duties and responsibilities of counsel are outlined in D.C. Code, sec. 21-2033(b), SCR-PD 305 and 321(d), and Probate Practice Standard #3.

2. Order appointing examiner
   An examiner is an "individual qualified by training or experience in the diagnosis, care, or treatment of the causes and conditions giving rise to the alleged incapacity, such as a gerontologist, psychiatrist, or qualified mental retardation professional." D.C. Code, sec. 21-2011(7).

   The petitioner may ask for the appointment of an examiner. The court maintains an Examiners List from which an appointment of examiner may be made.

3. Order appointing visitor
   A visitor is an officer, employee, or special appointee of the court who has no personal interest in the proceeding and who serves as an independent investigator, reports to the court on the subject's current situation and living conditions, and provides an opinion regarding the circumstances surrounding the subject. D.C. Code, sec. 21-2011(7). The duties and responsibilities of a visitor are outlined in D.C. Code, sec. 21-2033(c) and SCR-PD 327, and Probate Practice Standard #5.

   The court maintains a Visitors List from which an appointment of visitor may be made.

4. Order appointing guardian *ad litem*
   A guardian *ad litem* helps the subject determine the subject's interests with regard to the petition for a general proceeding. If the subject is unconscious or otherwise wholly incapable of determining his or her interests even with assistance, the guardian *ad litem* makes that determination. The need for such an appointment depends upon the circumstances of the case. The duties and responsibilities of a guardian *ad litem* are outlined in D.C. Code, sec. 21-2033(a) and SCR-PD 306, and Probate Practice Standard #4. Usually, guardians *ad litem* are appointed from the Fiduciary Panel.

5. Order regarding temporary relief
   In situations involving financial abuse, the petitioner may request temporary relief in the petition for general proceeding "to preserve and apply the property of the individual to be protected as may be required for support of the individual or dependents of the individual." D.C. Code, secs. 21-2044(d) and 21-2055(b)(1). Details that support the allegation of financial abuse should be provided so that the judge may determine if

a hearing is warranted. The hearing on temporary relief, if ordered, is usually scheduled within 10 days.

6. Discovery
   An order authorizing discovery may also be issued pursuant to a petition to conduct discovery. SCR-PD 312.

The Initial Hearing

The hearing on the petition for general proceeding ("initial hearing") is generally scheduled for a date that is between 30 to 45 days from the date of filing.[39] This time period allows for personal service of the Notice of Initial Hearing on the subject of the intervention proceeding within 14 days of the hearing. SCR-PD 311(c). The subject may not waive notice. SCR-PD 311(d). Sometimes a request to schedule the initial hearing within 20 days may be accommodated if the filer assures timely due process.

Issues at the initial hearing include:

1. Jurisdiction
   The subject of the proceeding must be 18 years or older, and the District of Columbia must be:
   a. The subject's "home state" as defined in guardian D.C. Code, sec. 21-2402.01(a)(2)[40], or

   b. A significant connection state as defined in D.C. Code, sec. 21-2402(a)(3), or

   c. Neither, but the home state and all significant connection states decline to exercise jurisdiction and jurisdiction in D.C. is more appropriate and consistent with Title 11 and the Constitution, or

   d. Special jurisdiction exists in accordance with D.C. Code, sec. 21-2402.04, to:

[39] The court's time-to-disposition standard calls for the resolution of the petition for general proceeding filed in an INT/IDD case by the withdrawal of the petition, the appointment of a fiduciary, or the denial of the petition and the dismissal of the case, as follows:

- 75% within 60 days from filing
- 98% within 90 days from filing

[40] Section 21-2402.01(a)(2) defines "home state" as "(A) The state in which the respondent was physically present, including any period of temporary absence, for at least 6 consecutive months immediately before the filing of a petition for a protective order of the appointment of a guardian; or (B) If none, the state in which the respondent was physically present, including any period of temporary absence, for at least 6 consecutive months ending within the 6 months prior to the filing of the petition."

i. Issue a protective order regarding real or tangible personal property located in D.C., or

ii. Appoint a guardian or conservator for whom a provisional order to transfer a proceeding from another state has been issued.

2. Service of Process
The subject of the proceeding must have been *personally* served with the notice of initial hearing and petition by an adult other than the petitioner at least 14 days before the hearing. D.C. Code, sec. 21-2031; SCR-PD 311(c)(3).

a. The subject may not waive notice, though others may do so in writing. D.C. Code, secs. 21-2032 and 21-2042; SCR-PD 311(d).

b. Proof of service of the notice (by affidavit) must be filed at court no later than the time set for the hearing. SCR-PD 311(c)(6).

3. Presence of Subject at Hearing
The subject of the proceeding must be present at the initial hearing unless good cause is shown for his or her absence. D.C. Code, secs. 21-2041(h) and 21-2054(e).

4. Incapacity
Petitioner must prove by clear and convincing evidence that the subject is incapacitated within the meaning of D.C. Code, sec. 21-2011(11),[41] (15),[42] and (16).[43] D.C. Code, sec. 21-2003.

5. Appointment of Guardian
If incapacity is proven, the court may appoint a guardian if there appears to be no less restrictive alternative to the appointment of a guardian and if the appointment is necessary as a means of providing continuing care

[42] "'Incapacitated individual' means an adult whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage all or some of his or her financial resources or to meet all or some essential requirements for his or her physical health, safety, habilitation, or therapeutic needs without court-ordered assistance or the appointment of a guardian or conservator."

[42] "'Manage financial resources' means those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits and income."

[43] "'Meet essential requirements for physical health or safety' means those actions necessary to provide health care, food, shelter, clothing, personal hygiene, and other care without which serious physical injury or illness is more likely than not to occur."

and supervision to the incapacitated individual. D.C. Code, sec. 21-2044(a) and (b).

a. D.C. Code, sec. 21-2043 outlines the persons who have priority to be appointed as guardian.

b. D.C. Code, sec. 21-2043(d) allows the court to pass over any person with priority to serve as guardian if doing so serves the best interest of the ward.[44]

c. The powers of the guardian may be limited; those limitations must appear on the guardian's letters of appointment. D.C. Code, sec. 21-2044(c).

d. The guardian must visit the ward at least once a month, as is required by D.C. Code, sec. 21-2043(e)(2), unless this requirement is altered by the court.

e. The guardian must file an acceptance of appointment and consent to jurisdiction before letters of appointment will issue. D.C. Code, sec. 21-2045. Failure to do so will result in the setting of a summary hearing at which time the guardian may be replaced.

6. Appointment of Conservator

If incapacity is proven, the court may appoint a conservator if there appear to be no less restrictive alternative to the appointment of a conservator and if the court determines:

a. The protected individual[45] has property that will be wasted or dissipated unless property management is provided, or

b. Money is needed for the support, care, and welfare of the protected individual or the protected individual's dependents.
D.C. Code, secs. 21-2051(b) and 21-2055(a)

c. As an alternative to the appointment of a conservator, the court may authorize a protective arrangement, such as creation of a trust or the sale or transfer of property, or other transaction affecting property or business affairs. D.C. Code, sec. 21-2056(a) and (b). A special conservator may be appointed to facilitate these matters. D.C. Code, sec. 21-2056(c).

[44] A "ward" is a person for whom a guardian has been appointed.
[45] A "protected individual" is a person for whom a conservator has been appointed.

d. D.C. Code, sec. 21-2057 outlines the persons who have priority to be appointed as conservator.

e. D.C. Code, sec. 21-2057(b) allows the court to pass over any person with priority to serve as conservator if doing so serves the best interest of the ward.

f. The conservator must file an acceptance of appointment and consent to the jurisdiction of the court and should file bond before letters of conservatorship will issue. D.C. Code, secs. 21-2058 and 21-2059. Failure to do so will result in the setting of a summary hearing at which time the conservator may be replaced.

g. In calculating bond, the face amount should be the aggregate capital value of the property of the estate (do not deduct for loans or mortgages) plus 1 year's estimated income minus the value of securities deposited under arrangements requiring a court order for removal and minus the value of any land that the fiduciary cannot sell, transfer or encumber without prior court approval (such as the protected individual's home). Six percent is added and the total is rounded to the nearest $500. D.C. Code, sec. 21-2058; SCR-PD 332.

7. Mediation

Any disputes concerning the appointment of a particular individual as guardian and/or conservator, or the powers of the guardian and/or conservator, or other issue affecting the personal and financial affairs of the ward/protected individual may be referred to the Elder Mediation Program. The court usually appoints a limited guardian to address the ward's needs while the permanent appointment is pending.

8. Parties and Participants

The issuance of the Findings of Fact, Conclusions of Law and Order disposes the petition for general proceeding and terminates the appointment of counsel, guardian *ad litem*, examiner and visitor, unless ordered otherwise.[46] The petitioner's status as a party will also end upon appointment of a guardian and/or conservator, unless ordered otherwise in the Findings of Fact, Conclusions of Law and Order. SCR-PD 303(e).

[46] SCR-PD 305 (counsel); 306 (guardian *ad litem*); 326(c) (examiner); 327 (visitor).

Exhibits

Beginning in October 2013, exhibits that are entered into evidence in the courtroom by a Probate Division judge and that may be viewed comprehensively in an electronic format are scanned into the court's case management system. The original of the scanned exhibit is returned to the presenting party who is to maintain it as it was when it was presented in the courtroom while the case is pending and through exhaustion of any appeals or appeal time periods. In accordance with Administrative Order 13-15, the presenting party is to make available the original exhibit for inspection by other parties or the court.

The original of any exhibit, such as x-ray film or blueprints that may not be viewed comprehensively in an electronic format is maintained by the court while the case is pending and through the exhaustion of any appeals or appeal time periods.

Schedule of Mandatory Filings

A Schedule of Mandatory Filings is mailed to the guardian and conservator and any counsel for the guardian and conservator with the letters of appointment and a copy of the Findings of Fact, Conclusions of Law and Order. The schedule provides the deadlines by which certain documents need to be filed, such as:

1. Required Filings for Guardian
   - Guardianship plan is due no later than 90 days from the date of the guardian's appointment in INT cases only. A guardianship plan is not required in IDD cases.

   - Guardianship report is due every six months from the date of appointment.

2. Required Filings for Conservator
   - Conservatorship plan and inventory is due within 60 days of appointment.

   - Conservator's report and annual account is due within 30 days of the anniversary of the conservator's appointment.

"Getting Started-Inventory" Seminar

The Probate Division's Auditing Branch hosts a seminar in which auditors provide best practices and instructions on how to prepare an inventory, including tips on establishing estate accounts and maintaining records so

as to be prepared for the annual account. The seminar is offered once a month; available dates can be found on the Probate Division's website.

3. Required Filings for Special Conservator: Report (plus account if bond was required to be filed) is due within 30 days after completion of task(s) for which the special conservator was appointed or the action provided for in the order for a protective arrangement and not later than six months after the order of appointment.

4. Required Filings for Temporary Guardians: None.

5. A change of address praecipe is to be filed within 10 days of the date of the move if the ward, guardian, or conservator moves.

Summary Hearing

Failure to file any of the required filings by a guardian, conservator, or special conservator is a default that is brought to the attention of the court at summary hearing after notice to the fiduciary pursuant to SCR-PD 309. The policy of the Office of the Register of Wills is to recommend removal of non-compliant fiduciaries pursuant to SCR-PD 309(a) ("If the irregularity or default is not remedied, the Register of Wills shall report it to the Court, which after notice to the person and a hearing, may either remove the fiduciary and appoint a successor pursuant to D.C. Code, sec. 21-2049(c) and/or sec. 21-2061 or excuse the irregularity or default or take other appropriate action").

- Summary hearings for the failure to file an acceptance and consent, bond, guardianship plan, guardianship report and inventory are held on Mondays and Fridays.

- Summary hearings for failure to file an account or to respond to audit requirements are held on Wednesdays.

The Guardianship Assistance Program (GAP)

The Probate Division has a unique program called the Guardianship Assistance Program (GAP), which provides assistance to guardians in the following ways:

- GAP provides education and assistance via phone calls, in person visits, and emails to guardians, wards, family members, service providers, and callers seeking basic information about the guardianship process.

- GAP schedules appointments for the Probate Resource Center to assist *pro se* filers with completion of the initial petition for guardianship and petitions post appointment.

- GAP hosts a monthly Guardianship Orientation Seminar to assist new and experienced guardians with understanding their role and the expectations of the court. The guardians are provided with guidance regarding how to complete guardianship plans and guardianship reports, a Frequently Asked Questions sheet, general information and forms packet, a schedule of mandatory filings, a tips/hints sheet for completing the guardianship report, a brochure on abuse and neglect, and a brochure on the Elder Mediation program.

- GAP holds an annual conference in March. The Guardianship Conference allows guardians to receive more in-depth training about national practice standards and to ask questions of experts in the field. Guardians are also able to network with other guardians and potentially create a support network during the Information Fair held immediately after the conference, featuring private and public service agencies.

- GAP conducts approximately 150 in-depth reviews of intervention cases each year. Student/staff visitor reports provide an opportunity for the guardian to receive feedback about their care of the ward. If concerns arise from the visit, the report reflects the visitor's recommendations. Recommendations include but are not limited to attendance at the Guardianship Orientation Seminar, request for status hearings, creation of pre-need burial plans, creation of advance directives, review of jurisdiction, and recommendations to increase visitation, terminate guardianship or refer the case to mediation.

Post-Appointment Issues

The ward, guardian, conservator and any person interested in the welfare of a ward may file a petition post-appointment to bring to the court's attention any issue concerning the guardianship and conservatorship, such as:

- Increasing/decreasing powers;
- Increasing/decreasing conservator's bond;
- Establishment of a special needs trust;
- Rules to show cause for recovery of possession of property;
- Removal or resignation of guardian and/or conservator and the appointment of a successor;
- Termination of appointment.

The time standard to process petitions post-appointment for submission to court by the Legal Branch is six business days from filing. A hearing is usually scheduled and counsel for the ward is appointed from the Fiduciary Panel. SCR-PD 322. The court may refer the matter to the Elder Mediation Program.

The Elder Mediation Program

Available only for pending INT/IDD cases, the Elder Mediation Program provides families and others concerned about the welfare of a ward an opportunity to discuss in a confidential setting any issue that may arise during the course of a guardianship or conservatorship. Court-appointed counsel will represent the interest of the ward at mediation.

The mediator will assist the mediation participants in reaching consensus and developing a proposed plan, which may include the division of property or responsibilities, the powers of the guardian, and payment arrangements. The mediator will file with the court a Probate Mediation Report that outlines these recommendations and any remaining issues. Those issues, as well as the proposed plan created by the parties, may be addressed at the status hearing set by the court.

An order of reference to mediation may be issued by the court *sua sponte* or pursuant to the recommendation of the Guardianship Assistance Program or as a result of the filing of a Petition for Referral to Mediation.

Fee Petitions

Visitors, examiners, counsel, guardians, conservators, special conservators, and guardians *ad litem* are entitled to "reasonable" compensation for services rendered in an INT/IDD case. Prior court approval is required before any fees may be paid from the ward's assets or the Guardianship

Fund. Fee petitions must contain details required by SCR-PD 308 and Administrative Orders 04-06 and 13-15.[47]

The Guardianship Fund is available in an INT/IDD cases when the ward has no assets or if the ward's estate will be depleted by payouts. D.C. Code, sec. 21-2060(a-1) describes situations where the ward's estate is presumed to be depleted.

Hourly rates for fee requests payable from estate assets are not fixed by rule, administrative order or statutory provisions. Hourly rates for Guardianship Fund fee requests are fixed by the D.C. Courts' Joint Committee on Judicial Administration at up to:

- $90 for lawyers serving as counsel, visitors, guardians, conservators, and guardians *ad litem*;
- $80 for non-lawyer visitors, guardians, conservators, and guardians *ad litem;*
- $100 for medical doctors serving as examiners;

[47] Rule 308 requires that fee petitions be verified (sworn to) and state:

1. The character and summary of services rendered;
2. The amount of time spent—the time expended should be calculated at tenth of an hour increments;
3. The basis of any hourly rate(s) of compensation;
4. The size of the estate administered;
5. The benefits that accrued to the estate or the subject of the proceeding as a result of the services;
6. The nature, extent and cost of services performed by others that are fiduciary obligations, such as accounting and tax preparation services;
7. The amount and source of compensation previously allowed to all persons.

If the fee petition requests payment from the Guardianship Fund, additional details are needed, including:

8. The nature and extent of the subject's assets, including contingent assets and noting which assets are liquid;
9. The nature and extent of the subject's income;
10. The character and extent of the subject's debts;
11. Whether the subject owns a residence and, if so, whether the subject's dependents live there or whether the subject or his/her dependents expect to return to the residence;
12. Whether there is a burial fund or whether funeral/burial expenses have been prepaid; and
13. Description of the subject's expenditures.

Attorneys have an additional filing requirement under Administrator Orders 04-06 and 13-15:

- To certify that the attorney (as fiduciary) or the attorney's client (as fiduciary) is current in filing mandatory reports (guardianship plans/reports, verifications of notice, accounts and subsequent requirements); and
- To certify for guardianships cases that the location/wellbeing of the ward has been confirmed or that diligent efforts have been made to locate the ward.

- $75 for all other health care professionals such as psychologists serving as examiners.

The time frame for filing a fee petition depends on the role of the petitioner.

- Conservators should submit fee requests either with the annual account or anytime before the approval of that annual account. When a conservator has filed a final account, the fee petition is due no later than 30 days after the filing of the final account.

- Guardians may file fee petitions annually no later than 30 days from anniversary date of the guardian's appointment. When the guardianship is terminated, the guardian's fee petition is due no later than 60 days after termination of the guardianship.

- Other court-appointees should file their fee requests within 90 days after the conclusion of the hearing on the appointment of a conservator and/or guardian.

- If a fee petition is filed untimely, the petition should be accompanied by a *Motion for Leave to Late File*.

Termination of Appointment

1. Death of the Ward (D.C. Code, sec. 21-2048)

When a ward dies, a Notice of Death should be filed by the fiduciary. SCR-PD 328(d) and 334(b)(1).

The guardian should file a final guardianship report or an affidavit in lieu of final guardianship report, depending on whether the guardian administered assets, within 60 days of the date of death. SCR-PD 328. The court will issue an order terminating guardianship upon receipt of the final guardianship report or affidavit in lieu of the final report.

The conservator should file a petition for termination of conservatorship, a conservator's report, and the final account within 60 days of the ward's death. SCR-PD 334(b). Upon hearing and approval of the final account, the court will issue an order of termination. Receipts evidencing transfer of assets are customarily required. The conservatorship closes when the receipts are filed.

2. Ward regains capacity (D.C. Code, sec. 21-2049(b))

The guardian should file a petition post appointment to terminate guardianship and a final guardianship report within 30 days of the order of termination. SCR-PD 328.

The conservator should file a petition for termination of conservatorship. After notice and a hearing, the court may issue a preliminary order of termination which will require the conservator to file a final account within 60 days. Approval of that final account will result in a final order of termination. Receipts evidencing transfer of assets are customarily required. SCR-PD 334(c). The conservatorship closes when the receipts are filed.

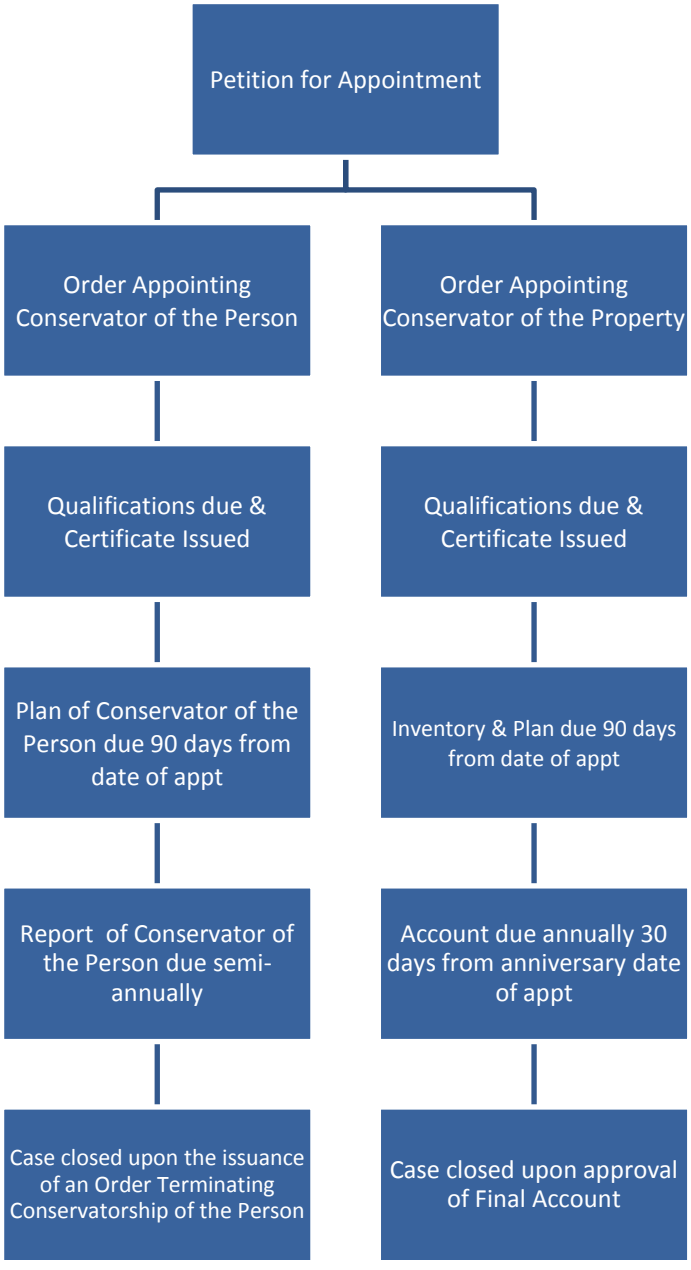
3. Other
    a. Exhaustion of assets (conservatorship only)
    b. Death, removal or resignation of guardian or conservator

FORMER ADULT CONSERVATORSHIPS (CON)

The Former Adult Conservatorship (CON) case type is closed to new filings. These cases are adult conservatorships established before the effective date of the *Guardianship Protective Proceedings and Durable Power of Attorney Revision Amendment Act of 1989*. Since the act, guardianships and conservatorships of incapacitated adults are opened as intervention proceedings (INT/IDD). Usually, in CON cases, only a conservator of the property of a disabled adult was appointed, although sometimes a conservator of the person was also appointed. Less than 30 cases remain open.

The old law conservatorship statute may be found at D.C. Code, secs. 21-1501 *et seq.* (1973 edition).

Former Law Conservatorship Case Flow



- Petitions/motions may be filed at any time during the life of the case
- Filing of plans, reports, inventories and accounts monitored through use of alerts
- Delinquency and summary hearing notices issued for delinquencies

Mandatory Filings

1. Required Filings for Conservator of the Person
   - Plan of Conservator of the Person—due 90 days from date of appointment

   - Report of Conservator of Person—due every six months from date of appointment

2. Required Filings for Conservator of the Property
   - Inventory—due 90 days from date of appointment

   - Account—due annually not later than 30 days after the anniversary of the date of appointment

Summary Hearings

Failure to file any of the required filings by the conservator of the person or the conservator of the property is a default that is brought to the attention of the court at summary hearing after notice pursuant to SCR-PD 207(b).

Summary hearings for failure to file the report/plan of the conservator of the person or the inventory of the conservator of the property are held on Mondays and Fridays. Summary hearings for failure to file accounts are held on Wednesdays. The policy of the Office of the Register of Wills is to recommend removal of non-compliant fiduciaries pursuant to SCR-PD 207(c) ("If the irregularity or default is not remedied, the Register of Wills shall report it to the Court, which after notice to the person and a hearing, shall either remove the fiduciary and appoint a successor or excuse the irregularity or default or take other appropriate action").

Processing of Pleadings

Various motions and petitions may be filed during the administration of a CON case. The time standard to process these filings by the Legal Branch and the Auditing Branch for submission to court is generally 30 days from filing, allowing for the passing of the response period as prescribed by SCR-Civil Rule 12-I(e) plus a short period of time for the preparation of the recommendation on disposition and one or more proposed orders for the court's consideration.

Special attention is needed for the following pleadings:

1. Petition to Expend Funds. Court approval is required before expenditures are made. SCR-PD 223(a).

2. Compensation/Fees

   Compensation to a conservator for **ordinary services**[48] is set at no more than 5% of the amount disbursed from the estate in the particular accounting period and must be claimed in the annual account. SCR-PD 225(a) and (b).

   A petition for compensation for **extraordinary services** rendered by a conservator may be filed at the time of filing the annual account or at any time for good cause[49] shown. SCR-PD 225(c) sets forth the issues to be addressed in the petition.

   When a **final account** is filed, SCR-PD 225(d) permits the conservator to request a turnover commission (generally not to exceed 5% of the net assets to be turned over to a successor conservator) and a commission for ordinary services (not to exceed 5% of the disbursements made in that accounting period). *But see* exceptions at SCR-PD 225(d)(1) and (2) and comments to Rule 225.

   Attorney's Fees: A petition for attorney's fees may be filed with the annual account or at any time for good cause shown; a statement of services must accompany the fee petition. SCR-PD 225(e).

[48] "Ordinary services" is described in Rule 225(a) as services "normally performed by a fiduciary in administering such an estate and shall include, but not be limited to, the following: (1) Qualification as the fiduciary; (2) Collection of the ward's assets and income; (3) Payment of the ward's debts and costs of maintenance, as authorized or ratified by the Court; (4) General supervision of the ward's investments and policy relating thereto, including safekeeping; and (5) Preparation and filing of all inventories, accounts, and reports to the Court."

[49] "Good cause" means "upon a showing of extreme hardship, tax considerations, or other significant factors." Comment to SCR-PD 225.

FOREIGN INTERVENTION PROCEEDINGS (FOI)

When to Open

A Foreign Intervention (FOI) case is opened when a guardian or conservator of an incapacitated adult who has been appointed by another jurisdiction needs authority to transact business or make health care decisions in the District of Columbia and (1) a guardian or conservator has not been appointed in the District of Columbia and (2) a petition for a protective proceeding is not pending in the District of Columbia.

After the documents required by D.C. Code, secs. 21-2077, 21-2404.01, and/or 21-2404.02 and SCR-PD 361 are filed and an FOI case is opened, the foreign guardian or conservator can exercise all powers authorized in the order of appointment from the other state. The court does not appoint the foreign guardian or conservator but simply gives full faith and credit to the appointment of the guardian or conservator by another court.

After filing, upon request and applicable payment, the Probate Division will issue a Certificate of Compliance, which indicates that the foreign guardian or conservator has filed all items that must be filed before the foreign guardian or conservator can act as such in the District of Columbia. Upon request and payment, the Probate Division will issue a Certificate of Absence of Pending Proceeding, which indicates that no protective proceeding is pending in the District of Columbia.

How to Open

The following documents must be filed to open a foreign intervention proceeding:

1. Recent,[50] exemplified or triple sealed, copies of the foreign guardian's or conservator's:
   - Order of appointment;
   - Letters of office; and
   - Bond.

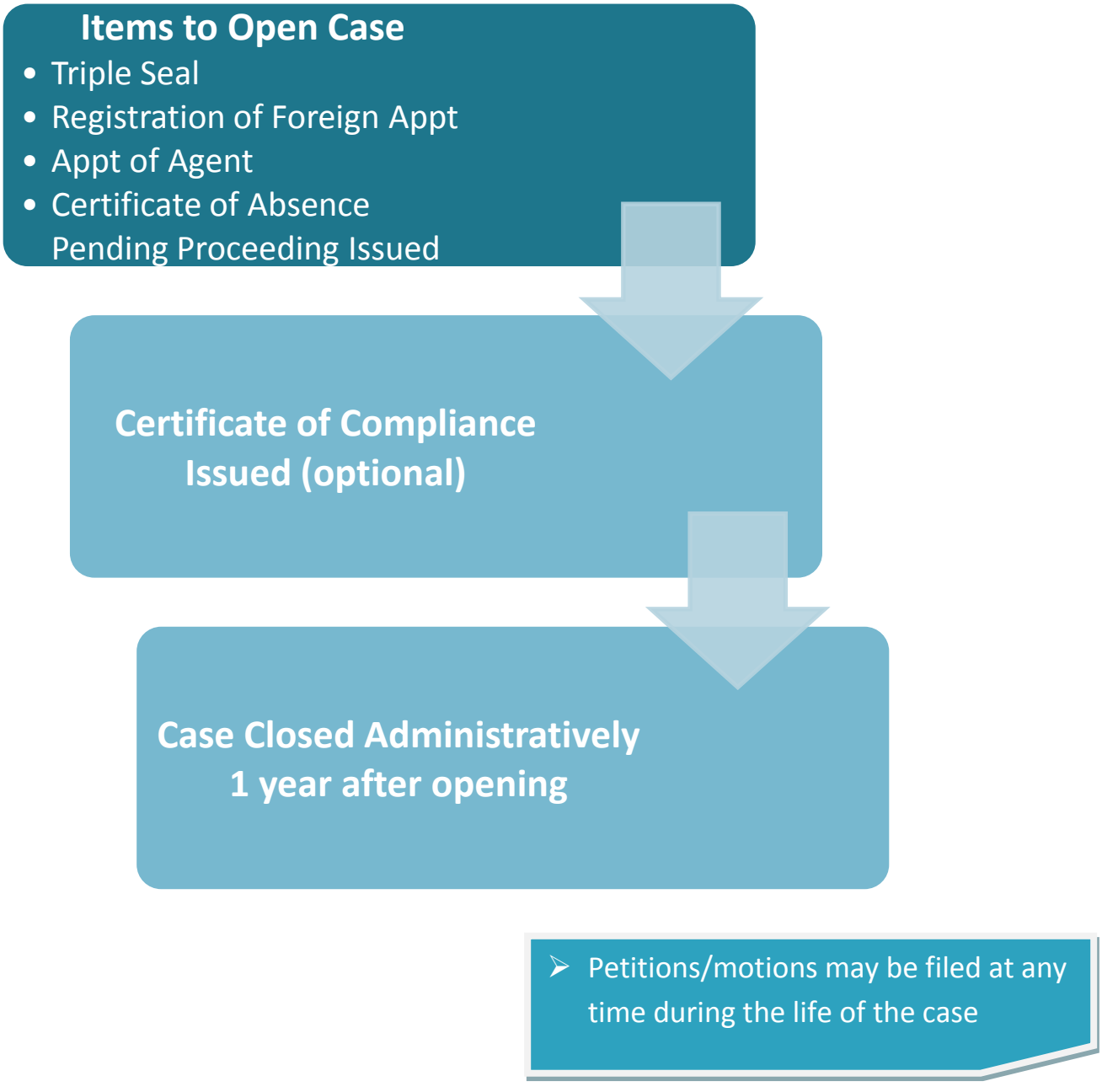
2. Registration of Foreign Guardianship and/or Conservatorship form.

3. Appointment of Agent to Accept Service of Process form signed by the guardian and conservator and by an agent. The agent must have a District of Columbia residence or business address.

[50] Dated within 60 days of filing with the Probate Division.

4. A fee of $5.00 to register a foreign conservatorship. The fee may be paid in cash, by credit card, or by check or money order payable to "Register of Wills." There is no fee to register a foreign guardianship.

Foreign Intervention Proceedings Case Flow



GUARDIANSHIPS OF MINOR'S ESTATES (GDN)

When to Open

Guardianships of minor's estates (GDN) cases are opened for children under the age of 18 who live in the District of Columbia and who are entitled to receive assets.[51] A guardian of a minor's estate is responsible for managing and safeguarding the minor's property until the minor becomes 18 and is different from a guardian/custodian appointed by the Family Court to manage a minor's personal affairs (*e.g.,* placement, education, health care). Guardianships of minor's estates cases are governed by D.C. Code, sec. 21-101 *et seq*.

How to Open

The following items must be filed in order to establish a guardianship for the assets of a minor:

1. A Petition for Appointment as Guardian of Estate of a Minor with proposed order.

2. Bond.[52]

3. Consents from the minor's parents (if they do not both sign the petition for appointment).[53]

4. A nomination of appointment of guardian signed by the minor if the minor is age 14 or older. SCR-PD 221.

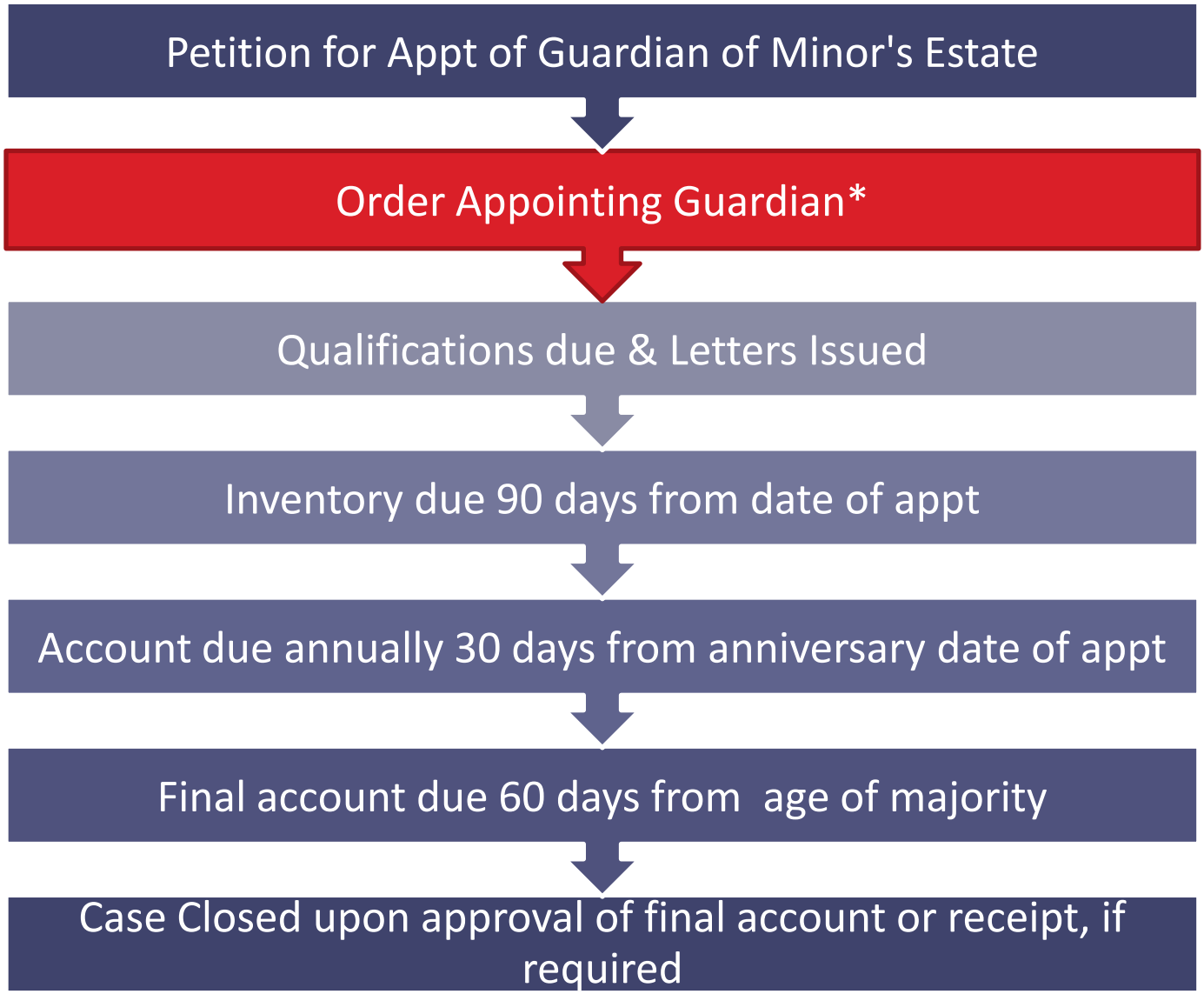
There is no filing fee to open the estate.

[51] D.C. Code, sec. 21-120(b) requires a guardianship to be opened on behalf of a minor if settlement of a civil action exceeds $3,000.00.

[52] A bond will protect the interest of the minor—if the guardian misappropriates or otherwise mishandles estate assets, the bonding company will repay the estate the amount lost or the amount of the bond, whichever is less.

[53] Notice to parents may be waived pursuant to SCR-PD 221(c), if an affidavit of diligent efforts to locate the parent is provided with the petition. If a parent is unknown, the court usually requires a copy of the minor's birth certificate reflecting that the parent is not identified.

Guardianships of Minor's Estates Case Flow



- *90-day Time to Disposition standard
- If initial petition is denied/withdrawn, case disposition is closed
- Petitions/motions may be filed at any time during the life of the case
- Filing of inventories and accounts monitored through use of alerts
- Delinquency and summary hearing notices issued for delinquencies

Forms

The petition and all other forms needed to open a guardianship of a minor's estate are available on the division's website.

Where to File

The petitioner, proposed guardian, the minor, and counsel of record, if any, must appear before an Assistant Deputy Register of Wills at the Legal Branch of the Probate Division. The proposed guardian will be admonished to maintain assets in the District of Columbia in accordance with the requirements of SCR-PD 202(e) and to seek permission of the court before making expenditures from estate assets. The Assistant Deputy Register of Wills will review the petition to ensure that all of the necessary documents have been submitted and that the filings comply with minimum legal requirements.

After the petition is accepted for filing, the petition and any attachments, including a draft order and the recommendation of the Office of the Register of Wills regarding the disposition of the petition are transmitted to a judge. The Legal Branch's time standard is to submit same to court within six business days of filing.

The Court Order

An order signed by a judge is needed to appoint the guardian, approve bond, and admonish the guardian against receiving assets in excess of bond, among other things.

1. Appointment of Fiduciary
   The court-appointed fiduciary must file an acceptance of appointment, consent to the jurisdiction of the court, a non-resident power of attorney (if applicable) that designates the Register of Wills for purposes of service of process, and a bond, if needed. The fiduciary cannot serve as guardian for more than 5 minors, unless the guardian is a trust company or the minors are members of the same family. D.C. Code, sec. 21-103(b).

   If a trust company is appointed, the policy of the Office of the Register is to request the filing of a Trust Officer praecipe, where the name and contact information for the trust officer is provided, and the trust officer's alternate in the event that the trust officer cannot be reached. This covers situations in which the trust officer changes employment, moves or is otherwise not responsive to the court.

2. Bond

   The court-appointed guardian of the minor's estate must file bond in the amount specified by the court. D.C. Code, sec. 21-115. A bond will protect the interest of the minor—if the guardian misappropriates or otherwise mishandles estate assets, the bonding company will repay the estate the amount lost or the amount of the bond, whichever is less.

   The bond amount should be sufficient to protect the value of the minor's assets. The bond amount should include the total value of assets plus one year's income, generally calculated at 6% and rounded to the nearest $500.

   If the proposed guardian cannot obtain bond, the court usually appoints a disinterested member of the Bar from the Fiduciary Panel as guardian of the minor's estate.

Performance Measures

The court's time-to-disposition standard calls for the resolution of the petition for the appointment of a guardian of a minor's estate by the withdrawal of the petition, the appointment of a guardian, or the denial of the petition and the dismissal of the case as follows:

- 75% within 60 days from filing
- 98% within 90 days from filing.

Schedule of Mandatory Filings

A copy of the signed order will be mailed to the court-appointed guardian and his or her attorney with letters of guardianship and a Schedule of Mandatory Filings that provides the deadlines by which certain documents must be filed. The schedule was created to assist the fiduciary, particularly non-lawyer fiduciaries.

- Inventories are due within 90 days from the date of the guardian's appointment. SCR-PD 204.

- Accounts are due within 30 days from the anniversary date of appointment. SCR-PD 204. The final account is due within 60 days of the minor's reaching the age of majority.

Summary Hearings

Failure to file an inventory and account is a default that is brought to the attention of the court at summary hearing after notice to the guardian pursuant to SCR-PD 207(b).

Summary hearings for failure to file the inventory are held on Mondays and Fridays. Summary hearings for failure to file accounts are held on Wednesdays. The policy of the Office of the Register of Wills is to recommend removal of non-compliant fiduciaries pursuant to SCR-PD 207(c) ("If the irregularity or default is not remedied, the Register of Wills shall report it to the Court, which after notice to the person and a hearing, shall either remove the fiduciary and appoint a successor or excuse the irregularity or default or take other appropriate action").

Processing of Pleadings Subsequent to Appointment of Fiduciary

Various motions and petitions may be filed during the administration of the minor's estate. The time standard to process these filings by the Legal Branch and the Auditing Branch for submission to court is generally 30 days from filing, allowing for the passing of the response period as prescribed by SCR-Civil Rule 12-I(e) plus a short period of time for the preparation of the recommendation on disposition and one or more proposed orders for the court's consideration.

Special attention is needed for the following pleadings:

1. Petition to Expend Funds. Court approval is required before expenditures are made from the minor's estate except for bond premiums, court costs, and income tax on the estate assets. SCR-PD 222(a).

   Because parents are responsible for the care, maintenance, and support of children, a petition to expend funds should be accompanied by a financial statement of each parent and an explanation why the parents are unable to make the expenditures is required when the guardian is seeking to use the minor's funds.

   Petitions for ongoing authority to make monthly or annual expenditures may be filed for certain expenditures, such as school tuition, monthly allowance, birthday and Christmas gifts, so that the guardian does not have to file the same type of petition repeatedly.

2. Petition to Invest Funds. Court approval is required before the minor's funds may be invested. SCR-PD 222(c). The reasonable, prudent investor standard applies pursuant to SCR-PD 5(a)(1) and (2).

   Petitions to invest should be accompanied by brochure or prospectus explaining the investment plan or program.

3. Compensation/Fees
   a. Compensation to a guardian of a minor's estate for **ordinary services**[54] is set at no more than 5% of the amount disbursed from the estate and must be claimed in the annual account. SCR-PD 225(a) and (b).

      A petition for compensation for **extraordinary services** rendered may be filed at the time of filing the annual account or at any time for good cause[55] shown. SCR-PD 225(c) sets forth the issues to be addressed in the petition.

      When a **final account** is filed, Rule 225(d) permits the guardian to request a turnover commission (generally not to exceed 5% of the net assets to be turned over to the former minor or the successor guardian if the minor has not yet reached the age of 18), and a commission for ordinary services (not to exceed 5% of the disbursements made in that accounting period). *But see* exceptions at SCR-PD 225(d)(1) and (2) and comments to Rule 225.

   b. **Attorney's Fees:** A petition for fees may be filed with the annual account or at any time for good cause shown; a statement of services must accompany the fee petition. SCR-PD 225(e).

Termination of Appointment

A final account is due within 60 days after the minor reaches the age of majority. SCR-PD 204(a)(5). The appointment of a guardian of the minor's estate will terminate upon filing of the receipt for the approved final account or upon approval of the final account, if the receipt has been pre-filed.

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[54] "Ordinary services" is described in Rule 225(a) as services "normally performed by a fiduciary in administering such an estate and shall include, but not be limited to, the following: (1) Qualification as the fiduciary; (2) Collection of the ward's assets and income; (3) Payment of the ward's debts and costs of maintenance, as authorized or ratified by the Court; (4) General supervision of the ward's investments and policy relating thereto, including safekeeping; and (5) Preparation and filing of all inventories, accounts, and reports to the Court."

[55] "Good cause" means "upon a showing of extreme hardship, tax considerations, or other significant factors." Comment to SCR-PD 225.

Cases Involving Trusts

Trusts are created when property is held by one person or entity for the benefit of another or others. Two trust-related actions are filed in the Probate Division:

1. Trusts; and

2. Notice of Revocable Trust.

TRUSTS (TRP)

Trust proceedings are governed by D.C. Code, secs. 19-1301.01 *et seq*. SCR-PD 201 through 213 and SCR-Civil Rule 304 also apply.

When to Open

One of the following pleadings may be filed to open a trust (TRP) case. Due to the complexity of trust interests, filers are encouraged to seek the assistance of a lawyer prior to filing.

1. Petition for Appointment of Successor, Substitute, or Additional Trustee
   This petition is filed when the terms of the trust instrument do not provide a mechanism to add or replace a trustee and either a vacancy in the trusteeship has occurred (*e.g.,* because of death of the trustee or because a trustee needs to resign) or an additional trustee is desired. SCR-PD 202(c) requires notice to parties and all affected persons.[56] Written consents to the petition, if filed, will expedite the processing of the petition.

   Forms for the petition and consent are not available on the court's website.

2. Petition to Establish Supplemental (or Special) Needs Trust
   This petition is filed to obtain court approval to establish a trust that will preserve assets for a person under the age of 65 who is entitled to receive means-tested government benefits, such as Medicaid. The person who will be the trust beneficiary must be disabled as defined by federal

[56] These are defined to be the serving trustee(s), the present income beneficiaries, and any then-living remaindermen who would receive trust assets if all income beneficiaries died on the date of the filing of the petition.

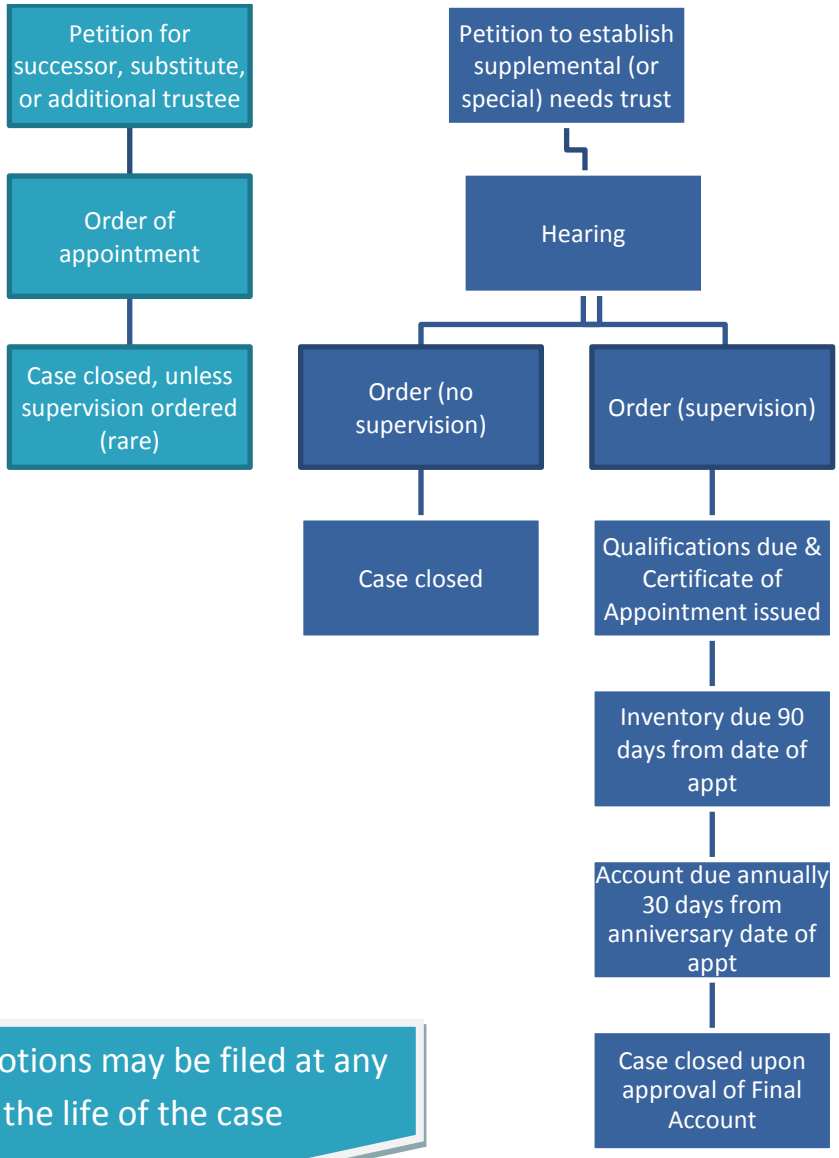
law (42 U.S.C. 1396p(d)(4)), and the trust must be irrevocable. When such petitions are filed, a copy of the proposed trust and an order establishing trust should be attached. These petitions are usually set for a hearing.

A form petition is not available on the court's website.

3. Complaint to Modify, Reform, Construe, or Terminate a Trust or to Remove a Trustee
   Complaints are docketed in the Major Litigation (LIT) case type, but an underlying trust proceeding will be opened if one does not already exist and the two proceedings will be linked in the case tracking system.

   A *pro se* complaint form is available on the court's website.

Trusts Case Flow



- Petitions/motions may be filed at any time during the life of the case

Where to File

An Assistant Deputy Register of Wills of the Probate Division's Legal Branch will review the pleading to ensure that it complies with minimum legal requirements.

After the petition is accepted for filing, the petition and any attachments, including a draft order and the recommendation of the Office of the Register of Wills regarding the disposition of the petition, are transmitted to a judge. The Legal Branch's time standard is to submit same to court within six business days of filing. Complaints will follow the track established by the Major Litigation (LIT) case type.

The Court Order

An order signed by a judge is needed to remove/replace a trustee, to establish a supplemental needs trust, to terminate a trust, or to modify/construe the terms of a trust. In those cases requiring the appointment of a trustee, the court will decide whether the estate should be supervised or unsupervised and, if supervised, whether bond is needed and in what amount and the deadlines for filing inventory and accounts.

1. Appointment of Trustee
   The supervised trustee must file an acceptance of appointment, consent to the jurisdiction of the court, and a non-resident power of attorney (if applicable) that designates the Register of Wills for purposes of service of process.

   If a trust company is appointed, the policy of the Office of the Register of Wills requires the filing of a Trust Officer Praecipe, containing the name and contact information for the trust officer and the trust officer's alternate in the event that the trust officer cannot be reached.

2. Bond
   The supervised trustee must file bond in the amount specified by the court. A bond protects the interest of the trust beneficiary—if the trustee misappropriates or otherwise mishandles trust assets, the bonding company will repay the trust the amount lost or the amount of the bond, whichever is less.

   The bond amount should include the total value of assets plus one year's income, generally calculated at 6% and rounded to the nearest $500.

A copy of the signed order will be mailed to the trustee and his or her attorney. Counsel will also receive the Certificate of Appointment (if the trustee is supervised).

Mandatory Filings

A supervised trustee is required to file an inventory within 90 days from the date of appointment and accounts within 30 days from the anniversary date of appointment, all of which are subject to audit. SCR-PD 204.

Summary Hearings

Failure to file an inventory or account is a default that is brought to the attention of the court at summary hearing after notice to the supervised trustee, pursuant to SCR-PD 207(b).

Summary hearings for failure to file an inventory are held on Mondays and Fridays. Summary hearings for failure to file accounts are held on Wednesdays. The policy of the Office of the Register of Wills is to recommend removal of non-compliant fiduciaries pursuant to SCR-PD 207(c) ("If the irregularity or default is not remedied, the Register of Wills shall report it to the Court, which after notice to the person and a hearing, shall either remove the fiduciary and appoint a successor or excuse the irregularity or default or take other appropriate action").

Processing of Pleadings Subsequent to Appointment of Trustee

Various motions and petitions may be filed during the administration of the trust. The time standard for processing these filings by the Legal Branch and the Auditing Branch and submission to court is generally 30 days from filing, allowing for the passing of the response period as prescribed by SCR-Civil Rule 12-I(e) plus a short period of time for the preparation of the recommendation on disposition and one or more proposed orders for the court's consideration.

Case Closure

Unsupervised trust proceedings are closed upon issuance of the order ruling on the petition that opened the trust case. Supervised trust proceedings close upon approval of the supervised trustee's final account (and the filing of any applicable receipts).

NOTICE OF REVOCABLE TRUST (NRT)

These proceedings are governed by D.C. Code, secs. 19-1301 *et seq.* (specifically, secs. 19-1305.05(d) and 19-1306.04(a)(3)) and SCR-PD 202, 208, 212 and 213.

When to Open

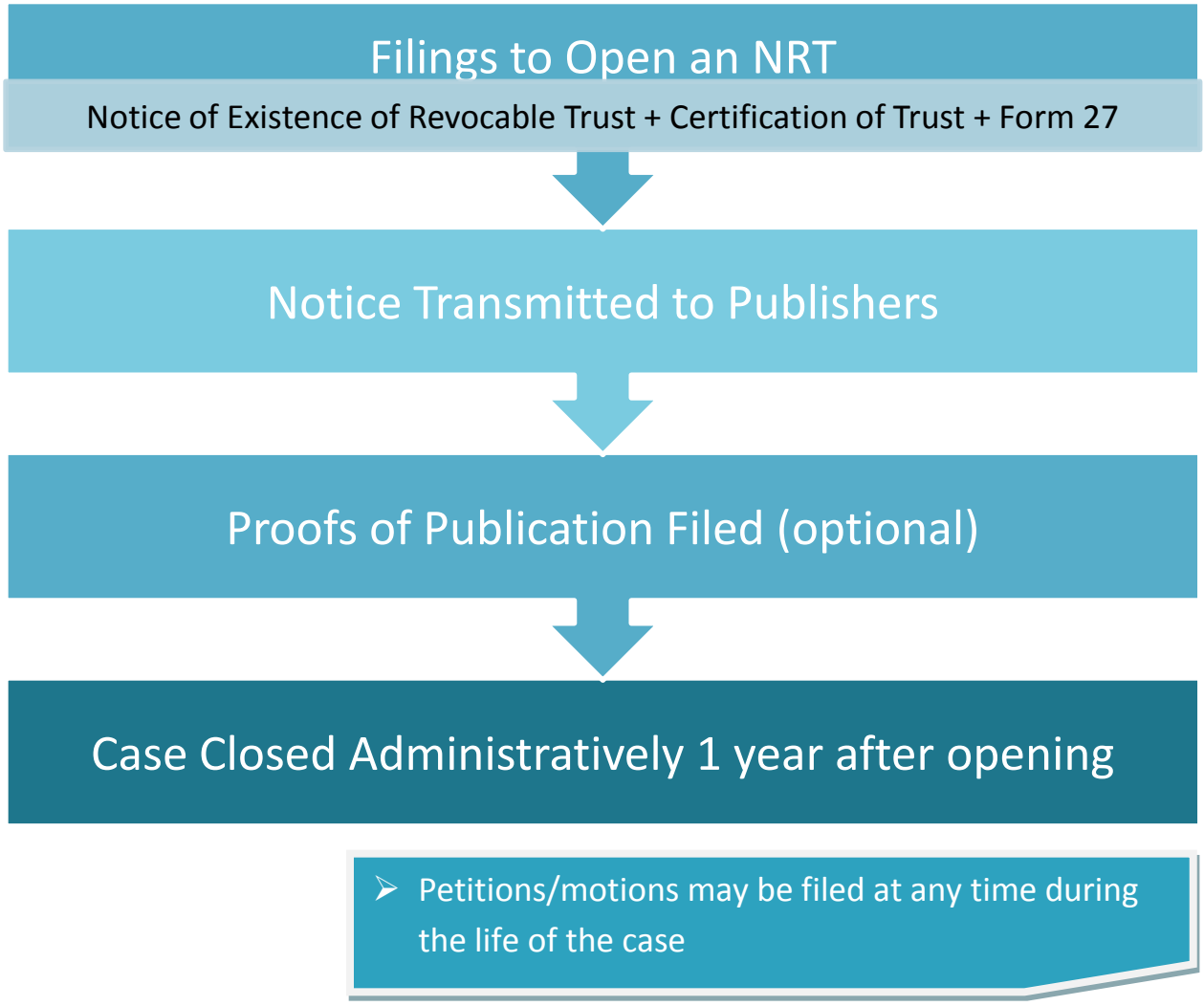
A trustee of a revocable trust may open a Notice of Revocable Trust (NRT) case in order to notify interested persons and creditors that a deceased person had established a trust prior to death that became irrevocable upon death.

How to Open

Documents required to open an NRT case are available on the Probate Division's website:

1. Notice of Existence of Revocable Trust;
2. Certification of Trust; and
3. Financial Account Information for Trusts Only (Form 27-T).

Notice of Revocable Trust Case Flow



Where to File

The documents are reviewed by the Probate Division's Legal Branch, where an Assistant Deputy Register of Wills will ensure that they comply with minimum legal requirements. Once accepted for filing, the Probate Clerk's Office will arrange for publication of the Notice of Existence of Revocable Trust in the two publications chosen by the filer. The newspapers bill the trustee directly.

Duties

The trustee must mail a copy of the notice within 15 days of the first date of publication to all qualified trust beneficiaries, heirs of the decedent, and creditors whose identities are known or could be reasonably ascertained. The trustee may file the proofs of publication and the Verification and Certificate of Notice of Existence of Revocable Trust within 90 days of the first date of publication as evidence of mailing but is not required to do so.

Claims

The trust is subject to claims of the deceased settlor's creditors, costs of administration of the settlor's estate, the expenses of the deceased settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the deceased settlor's residuary probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Creditors and other interested persons have six months from the first date of publication of the Notice of Existence of Revocable Trust to file any claims against the trust. The trustee may respond to a claim by filing a Notice of Action Taken on Claim. The claimant may file a petition for payment from the trust if the trustee takes no action on a claim, allows a claim but fails to pay it within a reasonable time, or disallows a claim.

An action to contest the validity of the trust must be commenced by the earliest of (1) one year from the date of death of the deceased settlor or (2) six months from the date of first publication of the Notice of Existence of Revocable Trust or (3) 90 days after the trustee sends a person with a potential cause of action a copy of the trust instrument and a notice informing the person of the trust's existence, the trustee's name and address, and the time allowed for commencing a proceeding.

Case Closure

NRT cases close administratively within one year after opening.

Major Litigation

When to Open

Major Litigation (LIT) cases are opened when complaints related to a Probate matter are filed. All complaints are considered to arise from an underlying Probate Division case, such as a decedent's estate (ADM or SEB), an intervention proceeding (INT, IDD, or FOI), a foreign estate (FEP), a trust proceeding (TRP), or a proceeding in which notice has been given that a decedent had a revocable trust (NRT).

Complaints are usually filed to:

- Challenge the validity of a will;
- Establish a person as an heir of a decedent;
- Modify, construe or reform the terms of a trust;
- Terminate a trust;
- Declare a person dead;
- Remove a fiduciary;
- Pay a claim.

How to Open

A complaint must be prepared in accordance with the Superior Court, Civil Division Rules[57] and verified (sworn to), pursuant to SCR-PD 107, 208 and 407. The caption of the verified complaint must list each plaintiff and each defendant by name and address. A summons is submitted by the filer for each defendant. The caption of each summons must contain the name and address of the defendant to whom it is addressed.

Verified complaints are reviewed by the Probate Division's Legal Branch, where an Assistant Deputy Register of Wills will review the complaint and summons to ensure that they comply with minimum legal requirements. Once accepted for filing, the Probate Clerk's Office will issue the summons and the Initial Order & Notice of Proposed Schedule of Events ("Initial Order") to the plaintiff for service on each defendant named in the verified complaint.

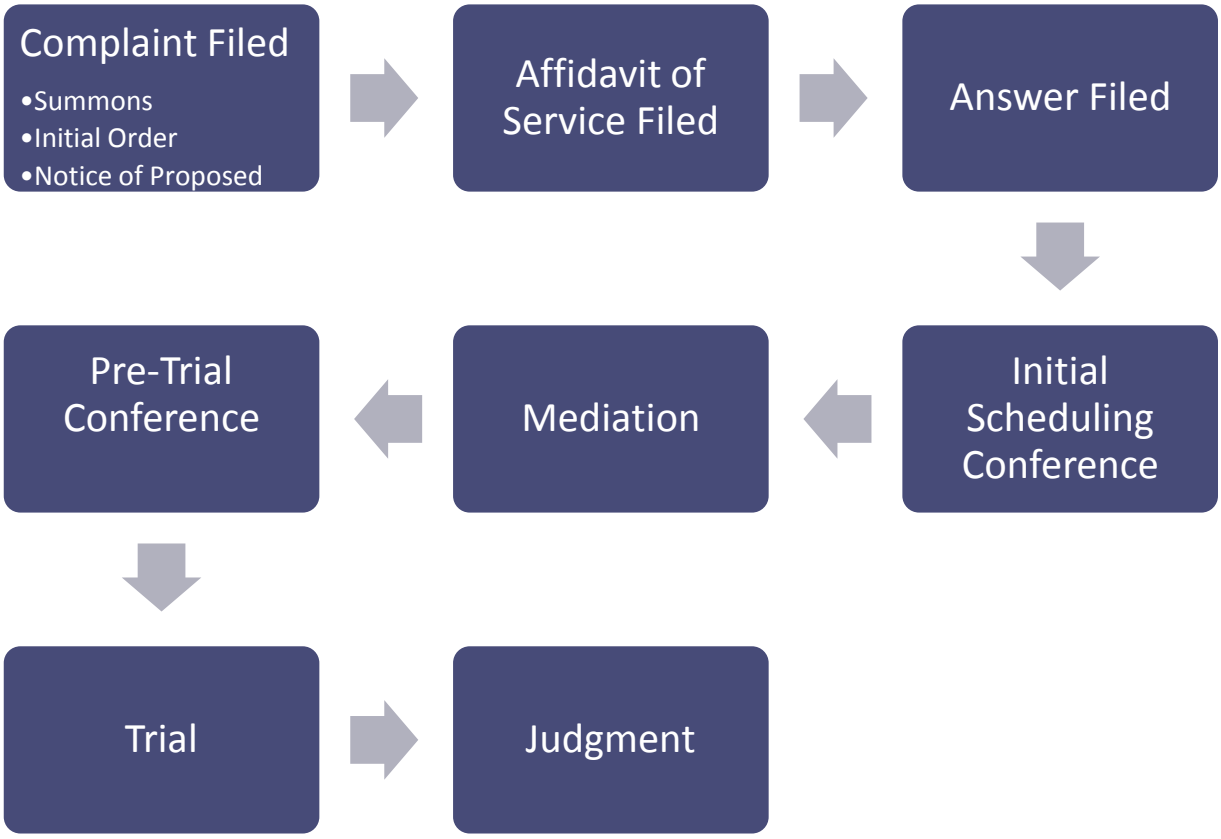
There is a $120.00 fee to file a complaint.

[57] SCR-PD 1(f) makes the Civil Division Rules applicable in the Probate Division, except where inconsistent with the Probate Division Rules.

In Forma Pauperis

Plaintiffs may file with Judge-In-Chambers an *Application to Proceed without Prepayment of Costs, Fees, or Security* (*In Forma Pauperis),* pursuant to SCR-Civil 54-II to waive the complaint's filing fee of $120.00. If granted, the Probate Division is responsible for serving the complaint, summons and Initial Order for the plaintiff and any subsequent motion or pleading filed by the plaintiff, unless the plaintiff waives such service.

Major Litigation Case Flow



- Motions may be filed at any time during the life of the case
- Filing of affidavit of service and answer monitored through use of alerts
- Notices of default and notices of dismissal issued for delinquencies

Forms

The verified complaint, summons, Application to Proceed Without Prepayment of Costs, Fees, or Security (In Forma Pauperis), affidavits of service, answer, pro se motion, subpoena and many other documents needed by the parties for a LIT case are available on the Probate Division's website.

Monitoring

The verified complaint, summons, and Initial Order must be served on the defendants and proof of service must be filed within 60 days from the filing date of the complaint. The defendant must file an answer to the complaint within 20 days of service.

The Probate Division issues notices of dismissal (when proof of service of the complaint is not filed) and notices of entry of default (when the defendant's answer to the complaint is not filed).

Processing of Subsequent Pleadings

Various motions may be filed during a LIT case. The time standard to process these filings by the Legal Branch is 30 days from filing, allowing for the passing of the response period as prescribed by SCR-Civil Rule 12-I(e) plus a short period of time for the preparation of the transmittal noting relevant procedural issues regarding the filing.

Exhibits

Beginning in October 2013, exhibits that are entered into evidence in the courtroom by a Probate Division judge and that may be viewed comprehensively in an electronic format are scanned into the court's case management system. The original of the scanned exhibit is returned to the presenting party who is to maintain it as it was when it was presented in the courtroom while the case is pending and through exhaustion of any appeals or appeal time periods. In accordance with Administrative Order 13-15, the presenting party is to make available the original exhibit for inspection by other parties or the court.

The original of any exhibit, such as x-ray film or blueprints, that may not be viewed comprehensively in an electronic format is maintained by the court while the case is pending and through the exhaustion of any appeals or appeal time periods.

Settlement Agreements

If the parties reach a settlement at mediation or any time, the policy of the Office of the Register of Wills is to request the filing of the settlement agreement plus the Praecipe to Accompany Settlement Agreement so that it is clear whether or not the case may be closed administratively or whether there are issues remaining. All settlement agreements are subject to judicial review.

Performance Measures

The Probate Division's goal is to close the LIT case within 1 year of the filing of the complaint.

Appendix

Court Cases Online

The dockets of the following Probate Division cases are available for viewing through Court Cases Online on the court's website. The images of items entered on the docket are not viewable through this system.

1. Large Estates Proceedings (ADM)
2. Small Estates Proceedings (SEB)
3. Foreign Estate Proceedings (FEP)
4. Wills (WIL)
5. Disclaimers (DIS)
6. Major Litigation (LIT)

All cases involving the incapacitated were excluded from Court Cases Online to protect these vulnerable persons against the risk of identity theft and personal/financial exploitation.

Staggered Calendar

The Probate Division follows a staggered calendar template that includes time allotments for recurring hearings. Status hearings, trials, hearings on Auditor-Master's Reports, and other miscellaneous matters are scheduled *outside* the template. The calendar is shared by four Probate judges.

Below is an outline of a typical week in the Probate Division calendar:

MONDAY	Courtroom #1	Courtroom #2	Courtroom #3	Courtroom #4
AM	Civil Tax[i] Hearings on Approval of Accounts	Civil Tax[i]		Summary Hearings for Failure to File Required Filings
PM				
TUESDAY	Courtroom #1	Courtroom #2	Courtroom #3	Courtroom #4
AM	Hearings on Petition for Guardian and/or Conservator			
PM				

WEDNESDAY	Courtroom #1	Courtroom #2	Courtroom #3	Courtroom #4
AM	Summary Hearings for Failure to File • Accounts • Receipts • Requirements Status Hearing on Interim Account Status Hearing on Why Estate Remains Open Hearing on Request for Extension of PR's Appointment		Hearings on Petition for Guardian and/or Conservator	
PM				
THURSDAY	Courtroom #1	Courtroom #2	Courtroom #3	Courtroom #4
AM	Hearings on Petition for Guardian and/or Conservator	Hearings on Petition for Guardian and/or Conservator		
PM				
FRIDAY	Courtroom #1	Courtroom #2	Courtroom #3	Courtroom #4
AM	Initial Scheduling Conferences	Initial Scheduling Conferences Hearings on Approval of Accounts	Initial Scheduling Conferences Hearings on Approval of Accounts	Summary Hearings for Failure to File Required Filings
PM				

[i] The Civil Tax calendar is heard on rotating Mondays been the presiding judge and deputy presiding judge.