

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**RULE PROMULGATION ORDER 11-03**

(Amend SCR-LT 13 and 13-I)

**WHEREAS**, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved amendments to Superior Court Rules of Procedure for the Landlord and Tenant Branch 13 and 13-I; and

**WHEREAS**, these rules do not modify the Federal Rules of Civil or Criminal Procedure; it is

**ORDERED** that Superior Court Rules of Procedure for the Landlord and Tenant Branch 13 and 13-I are hereby amended as set forth below; and it is further

**ORDERED** that the amendments to Superior Court Rules of Procedure for the Landlord and Tenant Branch 13 and 13-I shall take effect on July 1, 2011 and shall govern all motions filed on or after that date.

## SCR-LT 13

### **Rule 13. Motions.**

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

(b) *Motions to be decided in the Landlord and Tenant Branch.* A motion to be decided in the Landlord and Tenant Branch must be served and filed as follows:

(1) *Obtaining a hearing date.* Before serving or filing the motion, the movant must contact the Landlord and Tenant Clerk in person or by telephone or electronic mail and obtain a hearing date that is not earlier than the earliest date permitted by section (b)(2). The movant then must include the following notice of the date, time, and location of the hearing on the original and each copy of the motion, immediately following the certificate of service: "THIS MOTION HAS BEEN SET FOR HEARING IN THE LANDLORD AND TENANT COURTROOM ON ..... AT ..... I have confirmed this date and time with the Clerk of the Landlord and Tenant Branch."

(2) *Time of hearing.* A motion for summary judgment filed in accordance with section (d) 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 day after the day of filing of the motion if served by mail. All other motions will be set for hearing not earlier than the 7th calendar day after the day of filing of the motion if served by hand or the 10th calendar day after the day of filing of the motion if served by mail.

(3) *Service and filing.* After receiving the assigned hearing date and completing the notice of hearing required by section (b)(1):

(A) *Movants represented by counsel.* A movant represented by counsel must serve the motion in accordance with SCR Civ. 5. Once service of the motion has been completed, the original motion with a completed certificate of service must be filed.

(B) *Movants not represented by counsel.* A movant not represented by counsel must choose one of the following methods to serve and file a motion:

(i) *Service by the Clerk.* The movant must file the original motion and a copy for each of the other parties. The Clerk will serve a copy of the motion on each of the other parties and will note the date and method of service on the docket.

(ii) *Service by the party by hand.* Before filing the motion, the movant must serve a copy of the motion, with a completed notice of hearing, on each of the other parties by hand-delivery. If another party is represented by counsel, then service must be on the other party's counsel; if another party is not represented by counsel, then service must be on the other party directly. Once service by hand-delivery on all other parties has been completed, the movant must file the original motion, including a completed certificate of service as to all other parties.

(4) *Parties opposing motions.* A party intending to oppose a motion must attend the hearing on the motion, either personally or through counsel. Such a party also may file a

memorandum of opposing points and authorities before the time set for hearing, although the filing of a memorandum of opposing points and authorities does not excuse the party's attendance at the hearing on the motion.

(c) *Motions not to be automatically scheduled for hearings in the Landlord and Tenant Branch.*

(1) *Service and filing.* A motion to be heard by a judge in the Civil Actions Branch pursuant to SCR-LT 13-I must be served and filed in accordance with section (b)(3) but should not include a notice of hearing.

(2) *Motions to alter, amend, or for relief from a ruling or sanction.* A motion to alter, amend, or for relief from a ruling or sanction must be served and filed in accordance with section (b)(3) but should not include a notice of hearing. A motion to alter, amend, or for relief from a ruling or sanction entered by a judge in the Landlord and Tenant Branch must, whenever practicable, be decided by the same judge who issued the ruling or sanction, and the motion must include that judge's name in the caption immediately below the case number.

(3) *Parties opposing motions.* A party opposing a motion not scheduled for a hearing before the judge sitting in the Landlord and Tenant Branch may file a statement of opposing points and authorities within 14 days after service of the motion as calculated by SCR Civ. 6 or such further time as the court may grant.

(4) *Oral hearings.* Any party may request an oral hearing on a motion filed pursuant to this section 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. Regardless of whether the judge holds a hearing on the motion, the judge must decide the motion on the merits and may not grant a motion to which the opposing party has not consented until a statement of opposing points and authorities has been filed or the time period set forth in section (c)(3) has expired.

(b) *Summary judgment.* Any party seeking to recover upon or defend against a claim or counterclaim may, at any time after the appearance date indicated in the summons, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof the claim or counterclaim in accordance with Superior Court Rules of Civil Procedure 12-I(k) and 56. Oppositions to motions for summary judgment must be presented as follows:

(1) *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 hearing scheduled pursuant to section (b)(2) 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 SCR Civ. 12-I(k) and 56; or (B) presenting live testimony or producing affidavits or other admissible evidence at the hearing. Except where it would prejudice a party's ability to oppose the motion on the merits, the court may require the filing of a written opposition in accordance with SCR Civ. 12-I(k) and 56 instead of the presentation of live testimony or other admissible evidence.

(2) *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 SCR-LT 13-I must file a written opposition in accordance with SCR Civ. 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. Regardless of whether the judge holds a hearing on the motion, the judge must decide the motion on the merits and may not grant a motion to which the opposing party has not consented until a statement of opposing points and authorities has been filed or the time period set forth in section (c)(3) has expired.

(e) *Assignment of motions by the Presiding Judge.* Any judge sitting in the Landlord and Tenant Branch may retain a particular motion for decision by notifying the parties and causing a notation to be made in the docket. In addition, the Presiding Judge of the Civil Division may assign any motion arising in the Landlord and Tenant Branch to a particular judge for decision by that judge.

~~(e) *Time of hearing.* Motions filed in this Branch shall be heard not earlier than the 5th day after service of the motion, whether served by hand or by mail.~~

#### COMMENT

“In matters involving pleadings, service of process, and timeliness of filings, *pro se* litigants are not always held to the same standards as are applied to lawyers. Indeed, the trial court has a responsibility to inform *pro se* litigants of procedural rules and consequences of noncompliance [including] at least minimal notice . . . of pleading requirements. *Pro se* litigants are allowed more latitude than litigants represented by counsel to correct defects in service of process and pleadings.” *Padou v. District of Columbia*, 998 A.2d 286, 292 (D.C. 2010) (citations omitted).

A motion captioned as a “Motion for Reconsideration” is considered under subsection (c)(2) as a motion to alter, amend, or for relief from a ruling or sanction and will be treated as such under this Rule. See *Fleming v. District of Columbia*, 633 A.2d 846, 848 (D.C. 1993); *Wallace v. Warehouse Employees Union #730*, 482 A.2d 801, 804-05 (D.C. 1984).

“The trial court is not free to treat as conceded an unopposed motion for summary judgment” filed under section (d). *Milton Props., Inc. v. Newby*, 456 A.2d 349, 354 (D.C. 1983). “Even if an unopposed motion for summary judgment is deemed to establish that no genuine issue of material fact exists, the court must still review the pleadings and other papers to determine whether the moving party is legally entitled to judgment.” *Id.*

## SCR-LT 13-I

### **Rule 13-I. Motions and discovery in cases certified to Civil Division Actions Branch.**

(a) Motions to be decided by the assigned judge. AThe judge of the Civil Division to whom a case is certified has been assigned for a jury trial pursuant to SCR-LT 6 shall hear and determine the following motions in accordance with the Superior Court Rules of Civil Procedure, the general order, and any applicable calendar orders:

(1) motions to dismiss for failure to state a claim filed under SCR Civ 12(b)(6) or for judgment on the pleadings;

(2) motions concerning discovery;

(23) motions for summary judgment under SCR Civ. 56;

(34) motions concerning the conduct of the trial (e.g., motions *in limine* to exclude or receive evidence);

(45) motions to amend the pleadings or continue trial;

(56) motions filed pursuant to SCR Civ. 17-25 after the commencement of trial; and

(67) motions to continue trial or any other hearing scheduled before the assigned judge; concerning discovery presented to the Court for decision on or after the date of the scheduling conference held in accordance with SCR Civ 16(b).

(8) motions relating to the entry and withdrawal of counsel;

(9) motions for recusal of the assigned judge;

(10) motions to consolidate or sever;

(11) motions relating to any subject that are filed during trial or so close to trial that a hearing cannot be scheduled in the Landlord and Tenant Branch before the trial date;

(12) post-trial motions concerning the conduct or outcome of the trial or an appeal of the judgment;

(13) motions to vacate dismissals, defaults, or default judgments entered by the assigned judge;

(14) motions to alter, amend, or for relief from, an order issued by the assigned judge;  
and

(15) motions for enlargement of time to file any motion, opposition, or other paper that will be determined by the assigned judge in accordance with paragraphs (1)-(14) of this section.

(b) Parties opposing motions. Any party opposing a motion filed pursuant to section (a) may serve and file a statement of opposing points and authorities within 14 days after service of the motion upon the party as calculated by SCR Civ. 6 or such further time as the assigned judge may grant.

(c) Oral Hearings. Any party may request an oral hearing on a motion filed pursuant to section (a) by stating at the bottom of the party's motion or opposition, above the party's signature, "Oral Hearing Requested". If the assigned judge decides to hold a hearing on the motion, that judge will give to all parties appropriate notice of the hearing and may specify the matters to be addressed at the hearing. Regardless of whether the judge holds a hearing on the motion, the judge must decide the motion on the merits and may not grant a motion to which the opposing party has not consented until a statement of opposing points and authorities has been filed or the time period set forth in section (b) has expired.

(d) Motions to be decided in the Landlord and Tenant Branch. Except as provided in subsection (a)(11), the following motions will be heard and decided by the judge sitting in the Landlord and Tenant Branch pursuant to the rules of that Branch:

(1) motions relating to a protective order;  
(2) motions for an administrative stay of the proceedings;  
(3) motions for a temporary restraining order or preliminary injunction;  
(4) motions to enforce a settlement agreement or consent judgment, unless otherwise specified by the Court in the agreement; and

(5) post-trial motions not concerning the conduct or outcome of the trial or an appeal of the judgment.

(e) *Motions to alter, amend, or for relief from rulings or sanctions entered in the Landlord and Tenant Branch.* A motion to alter, amend, or for relief from a ruling or sanction entered by a judge sitting in the Landlord and Tenant Branch will be decided by that judge whenever practicable. Such a motion must include the judge's name in the caption below the case number. A party opposing the motion may file a statement of opposing points and authorities within 14 days after service of the motion as calculated by SCR Civ. 6 or such further time as the court may grant. A hearing on the motion will not automatically be set, but a hearing may be requested or held in accordance with SCR-LT 13(c)(4).

(f) *All other motions.* Except as provided in subsection (a)(11), ~~A~~all other motions will be heard and decided by the judge sitting in the Landlord and Tenant Court Branch pursuant to the rules of that ~~Court~~Branch, except that the Presiding Judge of the Civil Division has the discretion to certify any other motion not listed in section (a) to the assigned judge.

#### COMMENT

This rule does not modify the provision of LT Rule 10 that discovery in cases certified for jury trial may be undertaken only with leave of the Court. A motion captioned as a "Motion for Reconsideration" is considered under sections (a)(14) and (e) as a motion to alter, amend, or for relief from a ruling or sanction and will be treated as such under this Rule. See *Fleming v. District of Columbia*, 633 A.2d 846, 848 (D.C. 1993); *Wallace v. Warehouse Employees Union #730*, 482 A.2d 801, 804-05 (D.C. 1984).

\* \* \*

By the Court:

Date: May 20, 2011

/s/  
Lee F. Satterfield  
Chief Judge

Copies to:

All Judges  
All Magistrate Judges  
All Senior Judges  
Deborah Taylor-Godwin, Director, Civil Division  
Tiffany Adams-Moore, Branch Chief, Landlord and Tenant Branch  
Library  
Daily Washington Law Reporter  
Ryan K. Mullady, Assistant General Counsel  
Executive Officer  
Clerk of the Court  
Division Directors