

## **Rule 64-I. Attachment Before Judgment**

### **(a) APPLICATION AND NOTICE TO DEFENDANT.**

(1) *Requirements.* An application for a writ of attachment before judgment must be accompanied by:

(A) an affidavit setting forth specific facts meeting the requirements of D.C. Code § 16-501 (c) and (d) (2012 Repl.);

(B) a Notice to Defendant on a Civil Action Form 105; and

(C) if the defendant's address is unknown, an affidavit setting forth the plaintiff's reasonable efforts to ascertain the defendant's mailing address.

(2) *Actions by the Clerk.* The clerk must:

(A) send the notice to the defendant by first class mail at the address shown on the notice, or in the case of a foreign corporation, to its registered agent, if any; and

(B) note on the docket the date on which the notice is mailed.

(b) **ISSUANCE.** An application for a writ of attachment before judgment must be submitted as provided in Rule 12-I(b) to the judge—who may approve or deny issuance or direct further hearings before issuance as deemed appropriate.

(c) **GARNISHEE'S ANSWER; APPLICANT'S RESPONSE.** Within 10 days after accepting service of the writ of attachment, a garnishee must file an answer to the interrogatories with the clerk and serve a copy of the answer on the defendant and the party for whom the garnishment was issued. If within 14 days after service of the answer, or at a later time if the court allows, the party for whom the garnishment was issued fails to contest the answer to the interrogatories under D.C. Code § 16-522 (2012 Repl.), the garnishee's obligations under the attachment will be limited by his answer.

(d) **HEARING.** If a hearing is held as a result of the filing of a traversing affidavit by the defendant or the garnishee under D.C. Code § 16-506 (2012 Repl.), the plaintiff must establish the validity or probable validity of the underlying claim and the existence of the ground for issuing the attachment.

(e) **PRIORITY OF LIENS.** For purposes of determining priority of successive liens, a writ of attachment issued under Rule 64-I(b) becomes effective the date it is delivered to the United States marshal or deputy marshal.

(f) **EXPEDITING MOTIONS TO QUASH.** The court must hear all motions to quash attachments on an expedited basis. On at least 5 days notice to all parties, the court may, in appropriate cases, order that the action in which the motion was filed be tried on the merits at the same time the motion is heard.

(g) **DISCOVERY.** For good cause, the court may in its discretion permit discovery in attachment before judgment proceedings in the manner provided in Rule 69-I.

## **COMMENT TO 2017 AMENDMENTS**

Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure. Also, some time periods were adjusted to reflect the new time computation method in Rule 6. However, the garnishee's time for filing answers to the interrogatories was not increased because it is statutory.

## COMMENT

In connection with Rule 64-I, see *Sniadach v. Family Finance Corp.*, 395 U.S. 337 (1969) and *Fuentes v. Shevin*, 407 U.S. 67 (1972).