

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

**Notice of Proposed Amendments to Rule 5 of the
Superior Court Rules of Civil Procedure**

The District of Columbia Superior Court Rules Committee recently completed review of proposed amendments to Rule 5 of the Superior Court Rules of Civil Procedure. The Rules Committee will recommend to the Superior Court Board of Judges that the amendments be approved and adopted unless, after consideration of comments from the Bar and the general public, the proposed amendments are withdrawn or modified.

Written comments must be submitted by July 8, 2022. Comments may be emailed to Pedro.Briones@dccsystem.gov or may be mailed to:

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All comments submitted in response to this notice will be available to the public. New language is underlined, and deleted language is stricken through.

Rule 5. Serving and Filing Pleadings and Other Papers

(d) FILING.

(1) *Required Filings.* Any paper after the complaint that is required to be served, other than those referred to in Rule 5(d)(2) and Rule 12-I(d) and (e), must be filed no later than 7 days after service. ~~The following discovery requests and responses must not be filed except as provided in Rule 5(d)(2) or until they are used in the proceeding: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.~~

(2) *Discovery Requests and Responses.*

(A) *Without Leave of Court.* Discovery requests and responses may be filed, without leave of court, if they are:

- (i) appended to a motion or opposition to which they are relevant; or
- (ii) used in a proceeding.

(B) *By Court Order.* ~~If not appended to a motion or opposition~~ Except as provided in ~~under~~ Rule 5(d)(2)(A), a party may ~~only~~ file discovery requests and responses only by court order.

(C) *Retaining Discovery Papers.* The requesting party must retain the original discovery paper, and must also retain personally, or make arrangements for the reporter to retain, in their original and unaltered form, any deposition transcripts until the case is concluded in this court, the time for noting an appeal or petitioning for a writ of certiorari has expired, and any appeal or petition has been decided.

(D) *Certificate Regarding Discovery.*

(i) In General. A “CERTIFICATE REGARDING DISCOVERY,” setting forth all discovery that has occurred, must be filed with the court as an attachment to:

- (a) any motion regarding discovery;
- (b) any opposition to a dispositive motion based on the need for discovery; and
- (c) any motion to extend scheduling order dates.

(ii) Prohibition. ~~Unless attached to a motion listed in Rule 5(d)(2)(D)(i), a~~ “CERTIFICATE REGARDING DISCOVERY” must not be filed.

(3) *Non-Electronic Filing.* A paper not filed electronically is filed by delivering it:

- (A) to the clerk’s office; or
- (B) to a judge who agrees to accept it for filing, and who must then note the filing date on the paper and promptly send it to the clerk’s office.

COMMENT TO 2022 AMENDMENTS

Amendments to Rule 5(d) clarify that discovery materials must not be filed except in the circumstances specified in the rule.

Consistent with the 2022 amendment to Rule 12-I, the reference to a memorandum of points and authorities was deleted from Rule 5(d)(4).
