

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**Notice of Proposed Amendments to  
Rule 73 of the Rules of Civil Procedure**

On November 26, 2024, the Superior Court Rules Committee published for notice and comment proposed amendments to Rules 12, 28-I, and 73 of the Superior Court Rules of Civil Procedure. One comment was received regarding Rule 73. Having reviewed the rule again, the Rules Committee now publishes the attached modified proposal for amending Civil Rule 73.

The Rules Committee will recommend to the Superior Court Board of Judges that the amendments to Rule 73 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and adopted unless, after consideration of comments from the Bar and the general public, the proposed amendments are withdrawn or modified.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 5:00 pm ET on March 7, 2025. Comments should be addressed to Chair, Superior Court Rules Committee and submitted by email to [OfficeGeneralCounsel@dccsystem.gov](mailto:OfficeGeneralCounsel@dccsystem.gov) or mailed to:

Office of General Counsel  
Attention: Superior Court Rules Committee  
District of Columbia Courts  
500 Indiana Avenue, N.W., Room C620  
Washington, D.C. 20001

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

## **[CIVIL] Rule 73. Magistrate Judges: Trial by Consent; Appeal**

### **(a) TRIAL BY CONSENT; POWERS; PROCEDURE.**

(1) *In General.* When authorized under D.C. Code § 11-1732 (a) and (j)(5) ~~(2017 Supp.)~~ and specifically designated to exercise such jurisdiction by the Chief Judge, a magistrate judge may, if all parties consent, conduct any or all uncontested or contested proceedings, determine nondispositive and dispositive pretrial matters, make findings and enter final judgments and orders in a civil case. Rule 62 applies to judgments entered by a magistrate judge. A record of the proceedings must be made in accordance with Rule 201.

(2) *Limitations on Power.* A magistrate judge may not preside over a jury trial or exercise the contempt power.

(3) ~~*Waiver of Implied Consent.*~~ A party who fails both to file an answer, if an answer is required, ~~and~~ or to otherwise appear in an action, is deemed to have consented that a magistrate judge conduct all proceedings in the case, unless the court subsequently determines for good cause that the party should be permitted to withdraw its implied consent.

(4) ~~*Vacating a Referral*~~ *Withdrawing Express Consent.* ~~On its own for good cause or when a~~ A party who has expressly consented to a magistrate judge may be permitted to withdraw that consent only on a showings of extraordinary circumstances—the court may vacate a referral to a magistrate judge under this rule.

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### COMMENT TO 2025 AMENDMENTS

Subsection (a)(3) of the rule has been amended to allow a finding of implied consent to a magistrate judge whenever a party fails to file an answer, if an answer is required, or a party fails otherwise to appear in an action. Subsection (a)(3) also has been amended to allow a party whose consent to a magistrate judge has been inferred to withdraw the consent on a finding of good cause. Subsection (a)(4) has been amended to clarify the process for withdrawing express consent to a magistrate judge. Subsection (a)(4) also has been amended to delete the process for vacating a referral to a magistrate judge, a process that is not applicable in Superior Court. Finally, subsection (a)(1) has been amended to delete the citation to the D.C. Code year consistent with the general restyling of the Superior Court Rules and the Court of Appeals current Citation and Style Guide.

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