

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:

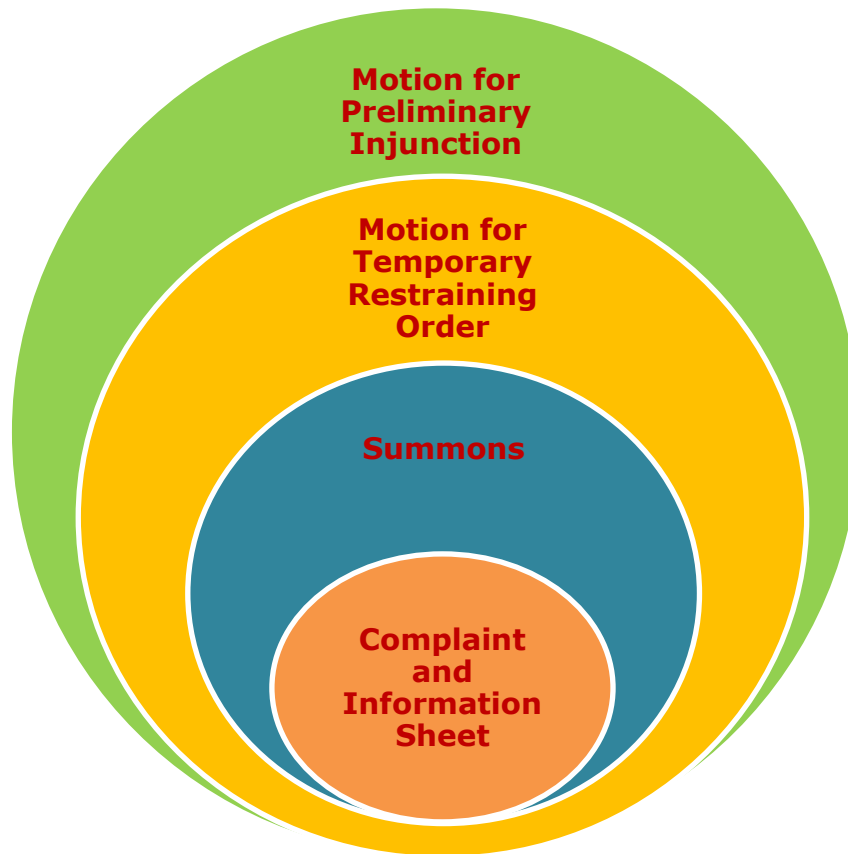
Appointment of a special process server	Motions with respect to publication of notice requirements	Judicial approval of settlements involving minors	Motions to use pseudonyms in any pleading or paper filed in a case
Applications to set bonds	Applications for temporary restraining orders	Writs of attachment 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

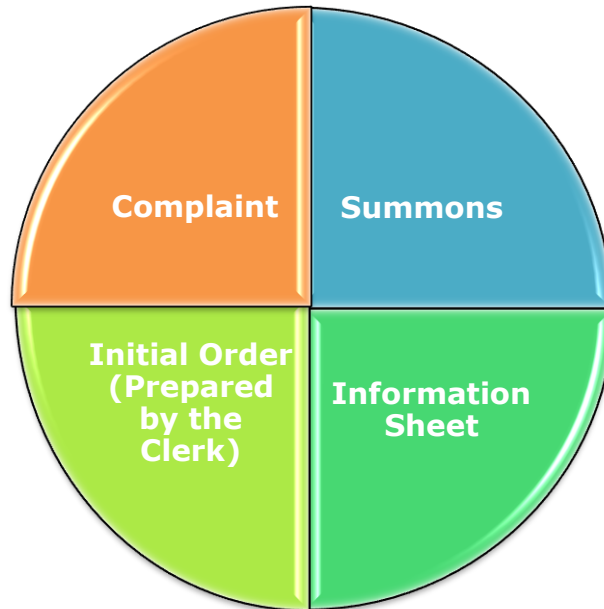
On the Housing Conditions Calendar, tenants may sue landlords for D.C. Housing Code violations on an expedited basis. The action is limited in nature and only available for those seeking to enforce compliance with D. C. Housing Code Regulations (14 D.M.R. §§ 500 - 900, 1200). A specific [Housing Code 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

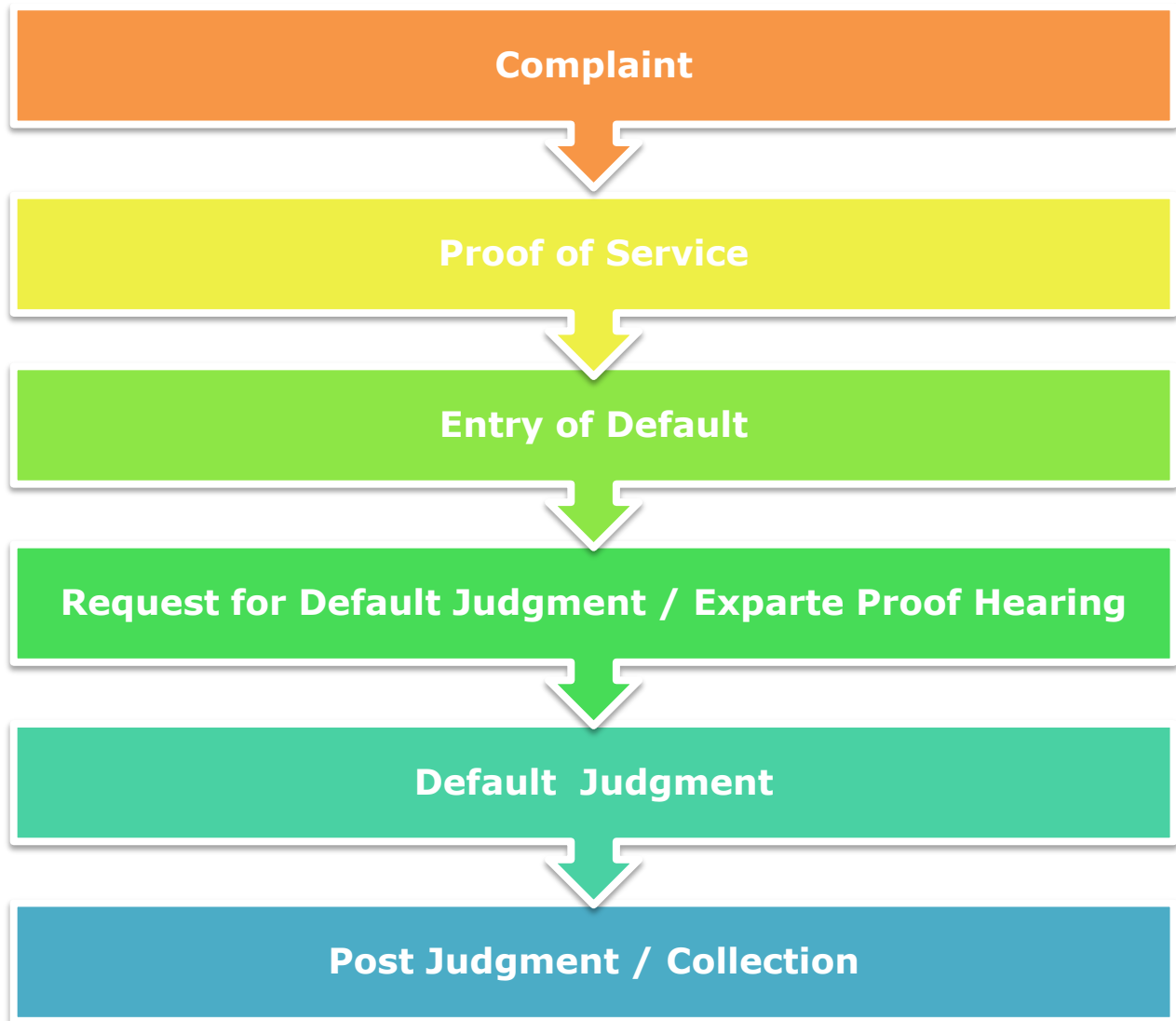
The plaintiff can request a default judgment from the clerk by filing a praecipe or declaration stating a specific amount in damages that is owed by the defendant. The clerk can enter the default judgment against a defendant if the plaintiff's claim is for a sum

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

	<u>Track I</u>	<u>Track II</u>	<u>Track III</u>
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

	<u>Track V1</u>	<u>Track V1 Fast</u>	<u>Track V2</u>	<u>Track V2 Fast</u>
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

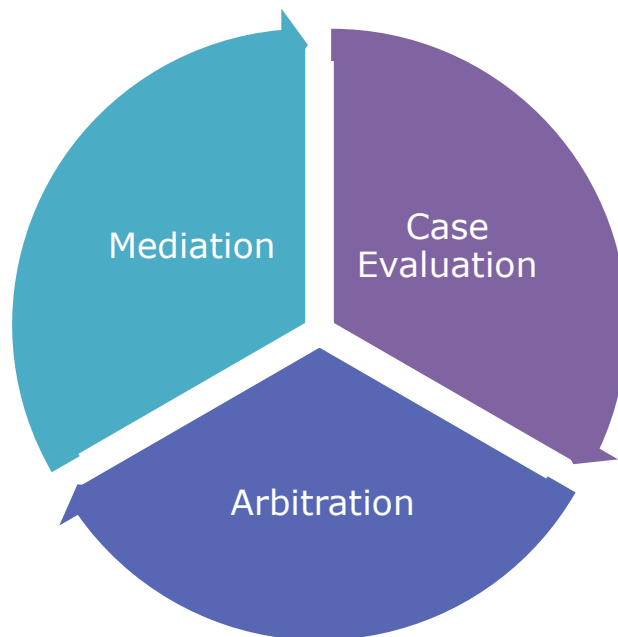
Scheduling Order Medical Malpractice Tracks

	<u>Track M</u>	<u>Track MS</u>
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

