

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**RULE PROMULGATION ORDER 10-03**

(Amend SCR Probate 407)

**WHEREAS**, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved amendments to Superior Court Rule of the Probate Division 407; and

**WHEREAS**, this rule does not modify the Federal Rules of Civil or Criminal Procedure; it is

**ORDERED** that Superior Court Rule of the Probate Division 407 is hereby amended as set forth below; and it is further

**ORDERED** that the amendment to Superior Court Rule of the Probate Division 407 shall take effect on August 1, 2010 and shall govern all proceedings thereafter commenced and insofar as is just and practicable all pending proceedings.

**SCR PROBATE 407**

PROCEEDINGS IN CONTESTED ESTATE CASES

(a) An action to contest the validity of a will in accordance with D.C. Code § 20-305, or an action for payment of a claim in accordance with D.C. Code § 20-908 or to institute a plenary proceeding in accordance with D.C. Code § 16-3105 may be commenced by any party in interest only by filing a verified complaint with the Register of Wills.

(b) Any other claim for relief that is not required by statute or rule to be commenced by filing a petition may be commenced by filing a complaint or petition.

(c) Except as hereinafter provided, the procedure for actions commenced by filing a complaint, including service of process, shall be governed by the Superior Court Rules of Civil Procedure.

(d) In a complaint brought pursuant to this rule to contest the validity of a will or to institute a plenary proceeding pursuant to D.C. Code § 16-3105, the defendants must be all interested persons, excluding creditors, and all persons needed for just adjudication

under Civil Rule 19. In any other complaint against the estate, the defendants must be the personal representative and any other persons needed for just adjudication under Civil Rule 19. In a proceeding to contest the validity of a will, the plaintiff must give notice pursuant to D.C. Code § 20-103 to creditors who are interested persons and must prove service of the notice by certificate of service.

(e) Upon the request of the plaintiff in an action commenced by the filing of a complaint, the Register of Wills must issue a summons in a form prescribed by the Register of Wills.

(f) When a complaint is filed pursuant to this rule, the parties may proceed with discovery pursuant to Civil Rules 26 through 37.

(g) Within 120 days after a complaint has been filed, the Court must conduct an initial scheduling and settlement conference pursuant to Civil Rule 16(b).

(h)(1) Except as provided in Rule 413 and D.C. Code § 20-521, all contested matters that are initiated by petition must be treated as motions pursuant to Civil Rule 12-I(d) through (n). (2) Exceptions and objections to reports, petitions, or accounts must be treated as oppositions. The person filing the report, petition, or account may file a reply within 10 days of service of the opposition. The Court may permit discovery under this subsection upon a showing of good cause.

### **Comment to 2010 Amendment**

This rule has been revised to set forth those actions required by statute or rule to be filed by complaint and to provide that other claims for relief not required by statute or rule to be filed as a petition may be filed by complaint or petition at the option of the filer. The amendment states who must be defendants and makes clear that the person filing the complaint must name the defendants in the complaint, whereupon the Register of Wills issues a summons to those named as defendants. The amended rule clarifies the notice and manner of service of notice that is required. In what now appears as subparagraph (g) of the rule, 60 days has been changed to 120 days to conform to current practice in the Probate Division. Finally, the amended rule separates petitions that must be treated as motions from exceptions and objections that must be treated as oppositions.

While other provisions of the rule may have been relocated in the rule and the paragraphs renumbered as required by these modifications, the rule otherwise remains substantially unchanged.

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