

Rule 28-I. Interstate Depositions and Discovery Procedures

(a) IN GENERAL. In seeking to conduct interstate depositions and discovery, parties may proceed under any of the following provisions.

(b) INTERSTATE DEPOSITIONS AND DISCOVERY PROCEDURES UNDER THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT, D.C. CODE §§ 13-441 to -448.

(1) *Issuance of Subpoena.*

(A) To request a subpoena under D.C. Code § 13-443 (2012 Repl.), a party must submit a foreign subpoena to the clerk. A request for the issuance of a subpoena under the Uniform Interstate Depositions and Discovery Act does not constitute an appearance in the courts of the District of Columbia.

(B) When a party submits a foreign subpoena to the clerk, the clerk, in accordance with these rules, must promptly issue a subpoena for service on the person to whom the foreign subpoena is directed.

(C) A subpoena under Rule 28-I(b)(1)(B) must:

(i) incorporate the terms used in the foreign subpoena; and
(ii) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(2) *Service of Subpoena.* A subpoena issued by a clerk under Rule 28-I(b)(1) must be served in compliance with D.C. Code § 11-942 (2012 Repl.) and Rule 45.

(3) *Deposition, Production, and Inspection.* The rules applicable to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises apply to subpoenas issued under Rule 28-I(b)(1).

(4) *Motions Regarding Subpoena.* A motion for a protective order or to enforce, quash, or modify a subpoena issued by a clerk under Rule 28-I(b)(1) must comply with these rules and the laws of the District of Columbia and must be submitted to the Superior Court.

(c) ASSISTANCE TO TRIBUNALS AND LITIGANTS OUTSIDE THE DISTRICT OF COLUMBIA UNDER D.C. CODE § 13-434.

(1) *By Court Order.* Upon application by any interested person or in response to letters rogatory issued by a tribunal outside the District of Columbia, the Superior Court may order service on any person who is domiciled or can be found within the District of Columbia of any document issued in connection with a proceeding in a tribunal outside the District of Columbia. The order must direct the manner of service.

(2) *Without Court Order.* Service in connection with a proceeding in a tribunal outside the District of Columbia may be made inside the District of Columbia without an order of the court.

(3) *Effect.* Service under Rule 28-I(c) does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the District of Columbia.

(d) COMMISSIONS OR NOTICES FOR TESTIMONY UNDER D.C. CODE § 14-103. When a commission is issued or notice given to take the testimony of a witness found within the District of Columbia, to be used in an action pending in a court of a state, territory, commonwealth, possession, or a place under the jurisdiction of the United States, the party seeking that testimony may file with this court a certified copy of the

commission or notice. Upon approval by the judge in chambers of the commission or notice and the proposed subpoena, the clerk must issue a subpoena compelling the designated witness to appear for deposition at a specified time and place. Testimony taken under Rule 28-I(d) must be taken in the manner prescribed by these rules, and the court may entertain any motion, including motions for quashing service of a subpoena and for issuance of protective orders, in the same manner as if the action were pending in this court.

COMMENT TO 2017 AMENDMENTS

This rule was amended to include the procedures for filing under the Uniform Interstate Depositions and Discovery Act (D.C. Code §§ 13-441 to -448 (2012 Repl.)) and D.C. Code § 13-434 (2012 Repl.). The process for obtaining a commission or notice under D.C. Code § 14-103 (2012 Repl.) has been retained from the prior version of the rule, but the provisions related to appointment of an examiner to take testimony of a witness outside the District of Columbia have been moved to new Rule 28-II. Stylistic changes were also made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure.

COMMENT

Paragraphs (c) and (b) of Rule 28-I implement the authority conferred on the Superior Court by § 14-103 and § 14-104, respectively.