

### **Rule 40-III. Collection and Subrogation Cases**

(a) **APPLICABILITY.** This rule applies to all civil actions in which the complaint seeks:

(1) collection of a liquidated debt of greater than the maximum amount set under D.C. Code § 11-1321 (2017 Supp.) for jurisdiction of actions in the Small Claims and Conciliation Branch; or

(2) recovery as subrogee of damages of greater than the maximum amount set under D.C. Code § 11-1321 (2017 Supp.) for jurisdiction of actions in the Small Claims and Conciliation Branch.

(b) **TIME ALLOWED FOR SERVICE OF PROCESS.** Notwithstanding the provisions of Rule 4(m), proof of service of the summons and any complaint listed in Rule 40-III(a) must be made no later than 180 days after the filing of the complaint. Failure to comply with the requirements of this rule will result in the dismissal without prejudice of the complaint. The clerk will enter the dismissal and serve notice on the parties.

(c) **EXTENSION OF TIME FOR SERVICE OF PROCESS.** Notwithstanding the provisions of Rule 6(b), the time allowed for service of process of complaints covered by this rule will not be extended unless a motion for extension of time is filed within 180 days after the filing of the complaint. The motion must set forth in detail the efforts which have been made, and will be made in the future, to obtain service. An extended period for service will be granted only if exceptional circumstances, detailed in the motion, demonstrate that additional time is required in order to prevent manifest injustice.

(d) **PLAINTIFF'S CONSENT TO MAGISTRATE JUDGE CALENDAR.** Upon filing any complaint covered by this rule, plaintiff may file a written consent to have the complaint assigned to a magistrate judge calendar. If such consent is filed, the magistrate judge may rule on any motion, and take any other judicial action (including conducting ex parte proof of damage hearings), as to any defendant who has not answered or otherwise responded to the complaint.

(e) **INITIAL SCHEDULING CONFERENCE.** As soon as practicable after the filing of any defendant's response to a complaint covered by this rule, the court must notify the parties to appear for an initial scheduling conference. If all appearing parties so consent, the case, including all claims, may be assigned to the magistrate judge calendar. If the parties have consented, the magistrate judge will ascertain the status of the case, rule on any pending motions, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable time frame for bringing the case to conclusion. After consulting with the attorneys for the parties and with any unrepresented parties, the magistrate judge will schedule future events in the case.

(f) **WITHDRAWAL OF CONSENT TO MAGISTRATE JUDGE CALENDAR.** If a party has consented to the assignment of the case to the magistrate judge calendar, such consent may be withdrawn only for good cause upon leave of the Presiding Judge of the Civil Division or that judge's designee.

(g) **COPIES OF PAPERS TO MAGISTRATE JUDGE.**

(1) *Motions.* When a party files, by non-electronic means, a motion or paper relating to a motion (i.e., an opposition to a motion, memorandum of points and authorities, related exhibits, or a proposed order) in a case assigned to the magistrate judge calendar, the party must deliver a copy to the magistrate judge as follows:

(A) if the motion or paper is filed in person at the clerk's office, the party, on the date the original is filed, must hand-deliver a copy addressed to the magistrate judge to the court mail depository; or

(B) if the motion or paper is mailed, the party, on the date the original is mailed, must mail a copy to the magistrate judge.

(2) *Other Pleadings and Papers*. No other pleading or paper should be delivered to the magistrate judge unless so ordered.

(h) ASSIGNMENT TO A JUDGE'S CALENDAR. In any case covered by Rule 40-III(a), if the plaintiff does not file a consent as provided in Rule 40-III(d), the case must be assigned to a judge's individual calendar pursuant to Rule 40-I. A complaint covered by this rule must also be promptly assigned to a judge's individual calendar in accordance with Rule 40-I if any party makes a jury demand.

#### COMMENT TO 2017 AMENDMENTS

Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure.