

## **Rule 81. Applicability of the Rules in General**

### (a) APPLICABILITY TO PARTICULAR PROCEEDINGS.

(1) [Omitted].

(2) [Deleted].

(3) [Deleted].

(4) *Special Writs*. These rules apply to proceedings for habeas corpus and for quo warranto to the extent that the practice in those proceedings:

(A) is not specified in applicable statutes or the Rules Governing Proceedings Under D.C. Code § 23-110; and

(B) has previously conformed to the practice in civil actions.

(5) *Proceedings Involving a Subpoena*. These rules apply to proceedings to compel testimony or the production of documents through a subpoena issued by an officer or agency of the United States or the District of Columbia under any applicable statute, except as otherwise provided by statute, by rule, or by court order in the proceedings.

(6) *Other Proceedings*. In proceedings relating to arbitration, these rules apply only to the extent that matters of procedure are not provided for in applicable statutes.

(b) SCIRE FACIAS AND MANDAMUS. The writs of scire facias and mandamus are abolished. Relief previously available through them may be obtained by appropriate action or motion under these rules.

(c) [Omitted].

### (d) LAW APPLICABLE.

(1) "*State Law*" *Defined*. When these rules refer to state law, the term "law" includes the state's statutes and the state's judicial decisions.

(2) "*State*" *Defined*. The term "state" includes, where appropriate, the District of Columbia and any United States commonwealth or territory.

(3) "*Federal Statute*" *Defined*. The term "federal statute" encompasses any Act of Congress, including one that applies locally to the District of Columbia.

(e) [Deleted].

(f) [Deleted].

(g) [Deleted].

## COMMENT TO 2017 AMENDMENTS

This rule is similar to *Federal Rule of Civil Procedure 81*, as amended in 2007 and 2009, but maintains the following local distinctions: 1) subsections (a)(1)-(3) have been omitted or deleted; 2) subsections (a)(4)-(6) have been amended to reference the District of Columbia and its local rules; 3) section (c) has been omitted; and 4) language in subsection (d)(3) has been adapted for the Superior Court rules.

## COMMENT

*Federal Rule of Civil Procedure 81* has been modified considerably because of differences in the jurisdictions of the Superior Court and the United States District Courts.

Section (a) describing the proceedings to which these Rules are applicable has been extensively revised.

Subsection (a)(1) relating to prize proceedings in admiralty, bankruptcy, copyright, and District of Columbia mental health proceedings has been deleted. The Rules governing mental health proceedings are found in the Superior Court Rules of Procedure for Mental Health.

Subsection (a)(2) is identical to the Federal Rule counterpart except that "applicable statutes" has been substituted for "statutes of the United States" and the reference to citizenship admissions has been deleted.

Subsection (a)(3) has been modified to reflect appropriate applicability to arbitration cases, but the inapplicable reference to Title 9, U.S.C. (governing cases in the courts of the United States arising out of disputes over arbitration agreements) has been deleted. Also deleted from the Federal Rule is reference to *45 U.S.C. § 159* which deals with railway labor cases in the United States District Courts. In conformity with these modifications, "those statutes" has been changed to "applicable statutes" in the 1st sentence of (a)(3). The 2nd sentence of subsection (a)(3) has been revised to comprehend all proceedings to compel whether based on a subpoena issued by a United States officer or agency or a District of Columbia officer or agency.

Subsection (a)(4) dealing with federal District Court review of orders of the Secretary of Agriculture, orders of the Secretary of the Interior, and orders of petroleum control boards is deleted.

Subsection (a)(5) dealing with proceedings in the federal District Courts for enforcement of National Labor Relations Board orders is deleted.

Subsection (a)(6) dealing with District Court proceedings under the Longshoremen's and Harbor Workers Compensation Act and provisions relative to cancellation of citizenship certificates is deleted.

Subsection (a)(7) of the Federal Rule has been abrogated and is thus left vacant in these Rules.

Section (b) of this rule is identical to *Federal Rule of Civil Procedure 81(b)*.

Section (c) of the Federal Rule dealing with the procedure in cases that have been removed from state courts to United States District Courts is thus inappropriate material for inclusion in Superior Court Rules and has been deleted.

Section (d) of the Federal Rule has been abrogated and that section is thus left vacant in these Rules.

Section (e) has been modified slightly in order to be appropriate for use in this Court. The 1st sentence of the Federal Rule section prescribes a principle of applicability for cases in the United States District Court for the District of Columbia and is thus deleted. (That applicability is, of course, properly secured by Rule 81 (e) of the Federal Rules as followed in the U.S. District Court for this District and is not affected by Rule 81 of the Superior Court.) The inclusive provision with respect to "statute of the United States" in the 2nd [3rd] sentence of the Federal Rule is made applicable to proceedings in the Superior Court by deletion of the phrase "so far as concerns proceedings in the United States District Court for the District of Columbia".

Section (f) is identical to *Federal Rule of Civil Procedure 81(f)*.