

**Rule 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment**

(a) WHEN THE SUPERIOR COURT IS OPEN. The Superior Court is considered always open for filing any paper, issuing and returning process, making a motion, or entering an order.

(b) PLACE FOR TRIAL AND OTHER PROCEEDINGS. Every trial on the merits must be conducted in open court and, so far as convenient, in a regular courtroom. Any other act or proceeding may be done or conducted by a judge in chambers, without the attendance of the clerk or other court official, and anywhere inside or outside the District of Columbia. But no hearing—other than one *ex parte*—may be conducted outside the District of Columbia unless all affected parties consent.

(c) CLERK'S OFFICE HOURS; CLERK'S ORDERS.

(1) *Hours*. The clerk's office—with a clerk or deputy on duty to assist the public—must be open during normal business hours as set by the Chief Judge. When practicable, those hours will comport with the hours of operation posted on the Superior Court's website.

(2) *Orders*. Subject to the court's power to suspend, alter or rescind the clerk's action for good cause, the clerk may:

- (A) issue process;
- (B) grant applications under Rule 54-II(b);
- (C) enter a default;
- (D) enter a default judgment under Rule 55(b)(1); and
- (E) act on any other matter that does not require the court's action.

(d) SERVING NOTICE OF AN ORDER OR JUDGMENT.

(1) *Service*. Immediately after entering an order or judgment, the clerk must serve notice of the entry, as provided in Rule 5(b), on each party who is not in default for failing to appear. The clerk must record the service on the docket. A party also may serve notice of the entry as provided in Rule 5(b).

(2) *Time to Appeal Not Affected by Lack of Notice*. Lack of notice of the entry does not affect the time for appeal or relieve—or authorize the court to relieve—a party for failing to appeal within the time allowed, except as allowed by the District of Columbia Court of Appeals Rules.

(3) *Who Can Perform the Clerk's Function*. Nothing in this rule precludes a judge or magistrate judge or his or her authorized staff member from performing the function of the clerk prescribed in Rule 77(d).

COMMENT TO 2019 AMENDMENTS

Subsection (c)(2) was amended to reflect the amendment to Rule 54-II, which now permits the clerk to grant applications when the applicant receives Temporary Assistance for Needy Families, General Assistance for Children, Program on Work, Employment, and Responsibility, or Supplemental Security Income.

COMMENT TO 2017 AMENDMENTS

This rule is substantially similar to *Federal Rule of Civil Procedure 77*, as amended in 2007, but maintains the following local distinctions: 1) "Superior Court" has been

substituted for "district courts" and "District of Columbia" for "district" where appropriate; 2) the language in subsection (c)(1) has been modified to reflect local practice, including the Chief Judge's authority to set the hours of the clerk's office and the practice of posting the hours on the Superior Court's website; and 3) in section (d), "District of Columbia Court of Appeals Rules" has been substituted for "Federal Rule of Appellate Procedure (4)(a)." Also, the 2014 federal amendment that updated a cross-reference in subsection (c)(1) has not been incorporated because the cross-reference was previously omitted.

New subsection (c)(1) replaces Rule 77-I. The new language in subsection (c)(1) regarding the hours posted on the Superior Court's website allows some flexibility for the Chief Judge to change the hours of operation in case of emergency or otherwise.

## COMMENT

[Moved from the comment to Rule 77-II.] Rule 77 identical to Federal Rule of Civil Procedure 77 except for; (1) substitution of "Superior Court" for "district courts" and "District of Columbia" for "district" where appropriate; (2) addition of the phrase "after 12:00 noon" to section (c) to reflect the fact that the Clerk's Office will be open Saturday mornings; (3) deletion of the authorization in section (c) for promulgation of local rules; (4) substitution in section (d) for reference to the Rules for the District of Columbia Court of Appeals in place of reference to the Federal Rules of Appellate Procedure; and (5) modification of the 1st sentence of section (d) to require the Clerk to mail notice of the entry of an order or judgment only when the same was signed or decided out of the presence of the parties or their counsel. This last modification is intended to save the Clerk substantial time by eliminating the needless administrative burden of mailing notice of orders or judgments to parties who are already aware of those orders or judgments by virtue of their presence at the time the same were made.