

## **Rule 49. Serving and Filing Papers**

(a) When Required. A party must serve on every other party any written motion (other than one to be heard *ex parte*), opposition, written notice, designation of the record on appeal, or similar paper.

(b) How Made. Service must be made in the manner provided for in a civil action. When these rules or a court order requires or permits service on a party represented by an attorney, service must be made on the attorney instead of the party, unless the court orders otherwise.

(c) Notice of a Court Order.

(1) In all cases where a party or the party's attorney is not present, immediately upon the entry of an order on a post-arraignment motion, the clerk must serve on each party a notice of the entry of the order and must make a note in the docket of the service. Service must be made in the manner provided for in a civil action. A party's lack of notice of the entry of the order does not affect the time to appeal, or relieve—or authorize the court to relieve—the party's failure to appeal within the time allowed, except as permitted by the Rules of the District of Columbia Court of Appeals.

(2) Nothing in this rule shall preclude a judge or magistrate judge or his or her authorized staff member from performing the function of the clerk prescribed in Rule 49(c)(1).

(d) Filing. A party must file with the court a copy of any paper the party is required to serve. A paper must be filed in a manner provided for in a civil action.

(e) Communications by Counsel to the Court. Copies of all communications, memoranda and briefs (other than those regarding matters to be heard *ex parte*) submitted by counsel to a judge or magistrate judge and relating to a proceeding pending before him or her must be delivered to each of the parties.

## COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in several respects.

Paragraph (a) includes “opposition” in the list of papers a party must serve on every other party.

Consistent with the former rule, paragraph (c) explicitly requires the clerk to notify the parties of orders on motions entered outside their presence. The clerk must mail notice of the entry of the orders to the parties and must make an entry on the docket that the notice has been mailed. This requirement is in keeping with District of Columbia Court of Appeals Rule 4(b)(5), which defines entry of an order made outside the presence of the parties with reference to the entry on the criminal docket reflecting the mailing of notice.

Paragraph (e) is retained from the former rule. It was added to insure that all parties are informed of any communication delivered to a judicial officer. The term “judge” in former paragraph (e) of this rule was replaced with the term “judge or magistrate judge” to make it applicable to communications by counsel with magistrate judges. The parenthetical phrase “other than those regarding matters to be heard *ex parte*” was added to parallel similar language in paragraph (a) of this rule.