

Rule 1. Scope, Title, and Purpose

(a) SCOPE.

(1) *In General.* These rules govern the procedure in actions brought in this court under D.C. Code §§ 11-1321 and 16-3901 to -3910 (2012 Repl. & 2017 Supp.).

(2) *Cases Certified for Jury Trial Under Rule 6.* When any case brought in the Small Claims and Conciliation Branch is certified to the Civil Actions Branch under Rule 6, the case must be scheduled for trial on an expedited basis and remains subject to these rules in all respects.

(3) *Cases Certified Under Rule 8.* When any case brought in the Small Claims and Conciliation Branch is certified to the Civil Actions Branch under Rule 8, it is subject in all respects to the Superior Court Rules of Civil Procedure.

(b) TITLE. These rules may be known as the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch and may be cited as “Super. Ct. Sm. Cl. R. ___.”

(c) PURPOSE. These rules should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The citation for the Superior Court Rules of Procedure for the Small Claims and Conciliation Branch has been updated to conform to the District of Columbia Court of Appeals Citation and Style Guide.

Rule 2. Applicability of Certain Superior Court Rules of Civil Procedure

Except where inconsistent with these rules or the expeditious and informal nature of small claims and conciliation proceedings, the following Superior Court Rules of Civil Procedure are applicable to actions brought in the Small Claims and Conciliation Branch:

Civil Rules 5, 5-I, 5-II, 5-III, 5.1, 5.1-I, 5.2, 6, 6-I, 8, 9, 9-I, 10, 10-I, 11, 12(b)-(h), 14, 15, 16, 16-II, 17, 19, 20, 21, 22, 23, 23-I, 23.2, 24, 25, 38, 38-II, 39, 39-I, 39-II, 40-I, 41, 42, 43, 43-I, 44, 44-I, 44.1, 45, 46, 47, 48, 49, 50, 51, 52, 53, 53-I, 53-II, 54, 54-I, 54-II, 55, 55-I, 55-II, 55-III, 56, 57, 58, 59, 60, 61, 62, 62-I, 62-III, 62.1, 63, 63-I, 64, 64-I, 65.1, 66, 67, 67-I, 68, 69, 69-I, 69-II, 70-I, 71, 71.1, 71.1-I, 73, 77, 77-II, 79, 80, 82, 83, 84, 86, 101, 102, 103, 201, 202, and 203.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule now specifically lists applicable local civil rules with roman numeral designations; the omission of a local civil rule with a roman numeral designation is an indication that the rule is not applicable.

COMMENT

Any reference herein to a particular Rule, as, for example, "Rule 5", comprehends both the original Rule and any addenda thereto, e.g., "Rule 5-I".

Rule 3. Commencement of Actions

(a) IN GENERAL.

(1) *Filing the Statement of Claim.* Actions are commenced by filing a statement of claim, verification, and notice (together with an exact copy for each defendant), printed on plain white paper approximately 8 1/2 inches wide by 11 inches long.

(2) *Form of Pleading; Requirements.* The pleading must be in a form prescribed by the court. The statement of claim must contain a simple but complete statement of the plaintiff's claim and be accompanied by a copy of any contract, promissory note, or other instrument on which the claim is based.

(b) ADDRESSES AND TELEPHONE NUMBERS OF PARTIES AND ATTORNEYS. Unless a party or attorney files written notice of a change, the addresses and telephone numbers of the parties and their attorneys that are stated in the original statement of claim or are first given by them are considered the current addresses and telephone numbers of the parties and attorneys for the purpose of all subsequent notices in the case.

(c) ELECTRONICALLY FILED DOCUMENTS. Any documents filed electronically must be in the form required by Rule 3(a), but otherwise must comply with Civil Rule 5.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Former section (b), which described the numbering and letter designation for cases, has been eliminated because it addressed internal administrative processes of the court.

Rule 4. Service of Process

(a) **IN GENERAL.** The plaintiff is responsible for having a copy of the statement of claim, verification, notice, any attachments, and any order directed by the court to the parties at the time of the filing served on the defendant.

(b) **BY WHOM.** Service of process must be made by one or more of the following persons:

(1) any competent person who is at least 18 years of age and not a party to or otherwise interested in the claim;

(2) a clerk, for service by registered or certified mail as provided in Rule 4(c), as to any defendant described in Rule 4(e), (g), or (h); or

(3) a United States marshal or deputy marshal if authorized by the court.

(c) **BY REGISTERED OR CERTIFIED MAIL.**

(1) *In General.* The clerk may serve any defendant described in Rule 4(e), (g), or (h) by:

(A) mailing a copy of the materials required by Rule 4(a) to the person to be served by registered or certified mail, return receipt requested, with or without restricted delivery, with funds obtained from the plaintiff on the day of filing; and

(B) noting on the record for that case the day and time of mailing, and the certification or registry number.

(2) *Delivery of Required Materials.* Service by registered or certified mail is valid if it is delivered by the mail carrier to the addressee or to any other responsible person qualified to receive the addressee's registered or certified mail. Even if the registered or certified mail is delivered to a person not so qualified, service is valid if the materials required by Rule 4(a) in fact come to the attention of the addressee within a reasonable time after delivery by the mail carrier and within a reasonable time before the date specified in the notice.

(3) *Service Valid Although Refused.* Service is valid even if the defendant refuses delivery of the registered or certified mail, if:

(A) on receipt of notice of the refusal, the clerk promptly mails to the defendant by ordinary mail a copy of the materials required by Rule 4(a), together with a notice that:

(i) states that despite the refusal, the case will proceed on the date specified in the original notice;

(ii) includes the date and time specified in the original notice; and

(iii) warns that a judgment by default may be rendered against the defendant unless the defendant appears to defend the suit; and

(B) the materials required by Rule 4(a) in fact come to the attention of the addressee within a reasonable time as provided in Rule 4(c)(2), except that the refusal of the certified mailing and the mailing by the clerk, alone, are not adequate to prove that the materials required by Rule 4(a), in fact, came to the attention of the addressee.

(d) **MANNER OF CONDUCTING SERVICE.** Service of process under Rule 4(b) and (c) may, at the plaintiff's or the court's election, be attempted either concurrently or successively.

(e) **SERVING AN INDIVIDUAL WITHIN THE UNITED STATES.** Unless applicable law provides otherwise, an individual—other than a minor or an incompetent person—may be served anywhere in the United States by:

(1) following District of Columbia law, or the state law for serving process in an action brought in courts of general jurisdiction in the state where service is made; or

(2) doing any of the following:

(A) delivering a copy of the materials required by Rule 4(a) to the individual personally;

(B) leaving a copy of the materials required by Rule 4(a) at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

(C) delivering a copy of the materials required by Rule 4(a) to an agent authorized by appointment or by law to receive service of process.

(f) **SERVING A MINOR OR AN INCOMPETENT PERSON WITHIN THE UNITED STATES.** A minor or an incompetent person in the United States must be served by following District of Columbia law (D.C. Code §§ 13-332 and -333 (2012 Repl.)) or the state law for serving process on such a defendant in an action brought in the courts of general jurisdiction of the state where service is made.

(g) **SERVING A CORPORATION, PARTNERSHIP, OR ASSOCIATION WITHIN THE UNITED STATES.** Unless applicable law provides otherwise, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served within the United States:

(1) in the manner prescribed by District of Columbia law, or the state law for serving process in an action brought in courts of general jurisdiction in the state where service is made; or

(2) by delivering a copy of the materials required by Rule 4(a) to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant.

(h) **SERVING THE DISTRICT OF COLUMBIA, AN AGENCY OR OFFICER OF THE DISTRICT OF COLUMBIA, OR OTHER GOVERNMENT ENTITIES SUBJECT TO SUIT.**

(1) *State or Local Government.* A state, municipal corporation, or other state-created governmental organization that is subject to suit must be served by:

(A) delivering a copy of the materials required by Rule 4(a) to its chief executive officer; or

(B) serving the materials required by Rule 4(a) in the manner prescribed by that state's law for serving process on such a defendant.

(2) *District of Columbia.*

(A) *In General.* The District of Columbia must be served by delivering or mailing copies of the materials required by Rule 4(a) to the Mayor of the District of Columbia (or designee) and the Attorney General of the District of Columbia (or designee).

(B) *Designees.* The Mayor and the Attorney General may each designate an employee for receipt of service of process by filing a written notice with the court clerk.

(C) *Service on a Nonparty.* In any action attacking the validity of an order of an agency or officer of the District of Columbia not made a party, a copy of the materials required by Rule 4(a) must also be delivered or mailed to the officer or agency.

(D) *Agency; Officer or Employee Sued in an Official Capacity.* To serve a District of Columbia agency or a District of Columbia officer or employee sued only in an official

capacity, a party must serve by delivering or mailing a copy of the materials required by Rule 4(a) to the Mayor (or designee), the Attorney General (or designee), as well as the agency, officer, or employee.

(E) *Officer or Employee Sued Individually.* To serve a District of Columbia officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the District of Columbia's behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve:

- (i) the District of Columbia under Rule 4(h)(2)(A); and
- (ii) the officer or employee under Rule 4(e) or (f).

(i) PROVING SERVICE.

(1) *Affidavit or Unsworn Declaration Required.* Proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit or unsworn declaration.

(A) *Service by Delivery.* If service is made by delivery pursuant to Rule 4(b)(1) or (3), then the return of service must be made under oath or by unsworn declaration (unless service was made by the United States marshal or deputy United States marshal) and must specifically state:

- (i) the caption and number of the case;
- (ii) the process server's name, residential or business address, and the fact that he or she is 18 years of age or older;
- (iii) the time and place when service was made;
- (iv) the fact that the materials required by Rule 4(a) were delivered to the person served; and
- (v) if service was effected by delivery to a person other than the party named in the summons, then specific facts from which the court can determine that the person to whom process was delivered meets the appropriate qualifications for receipt of process set out in Rule 4(e)–(h).

(B) *Service by Registered or Certified Mail.* If service is made by registered or certified mail under Rule 4(b)(2), then the clerk must promptly attach the return receipt to the original statement of claim and note the return receipt on the docket, indicating whether the receipt shows delivery to or refusal by the defendant. If the signature on the return receipt is not legible, or if the return receipt does not purport to be signed by a party named in the statement of claim, then service has not been properly effected unless the court determines from specific facts presented that the person who signed the receipt is either the defendant or a person who meets the appropriate qualifications for receipt of process set out in Rule 4(e)–(h).

(2) *Validity of Service; Amending Proof.* Failure to prove service does not affect the validity of service. The court may permit proof of service to be amended.

(j) DATE OF SERVICE. Service is deemed made:

(1) as of the date on which the materials required by Rule 4(a) are delivered and the return receipt is signed by the defendant or other person meeting the qualifications in Rule 4(e)–(h); or

(2) if the registered or certified mail is refused by the defendant, and the notice provided in Rule 4(c)(3)(A) is promptly sent by ordinary mail, as of the date on which the registered or certified mail would have been delivered, except for the refusal.

(k) RETURN OF SERVICE. Proof of service either by affidavit or unsworn declaration or by return receipt for service by registered or certified mail must be provided to the clerk's office at least 7 days before the initial court date. If proof of service is not provided to the clerk at least 7 days before the initial court date, then the plaintiff may request that the initial court date be reset, unless both parties are present on the initial court date and elect to proceed. If the initial court date is reset, then the clerk must mail notice to both parties.

(l) APPLICABILITY OF CIVIL RULE 4. Except as provided in this rule, the procedures in Civil Rule 4 must be followed for:

- (1) serving a party not within the United States (Civil Rule 4(f), (g), (h)(2), or (j)(1));
- (2) serving the United States, and its agencies, corporations, officers, or employees (Civil Rule 4(i));
- (3) determining the territorial limits on service (Civil Rule 4(k)); and
- (4) asserting jurisdiction over property or assets (Civil Rule 4(n)).

(m) TIME LIMIT FOR PROOF OF SERVICE.

(1) *In General*. Within 60 days of the filing of the statement of the claim, or within 90 days in debt collection and subrogation cases identified in Rule 19(a), proof of service of the materials required by Rule 4(a) must be filed. A separate proof must be filed as to each defendant who has been served with those materials.

(2) *Motion for Extension of Time*. Prior to the expiration of the foregoing time periods, the plaintiff may make a motion to extend the time for service. The motion must set forth in detail the efforts that have been made, and will be made in the future, to obtain service. If the plaintiff shows good cause, the court must extend the time for an appropriate period.

(3) *Service After Granting Extension of Time*. Along with the materials identified in Rule 4(a), a copy of the order granting a motion for extension of time and notice of the new court date must be served on the defendant. Proof of service under Rule 4(i) must include, in addition to the materials identified in that rule, the order granting the motion for extension of time and notice of the new court date.

(4) *Dismissal*. With the exception of cases where service is made outside of the United States under Civil Rule 4(f), (h)(2), or (j)(1), the plaintiff's failure to comply with the requirements of this rule will result in the dismissal without prejudice of the claim. The clerk will enter the dismissal and serve notice on all the parties.

COMMENT TO 2019 AMENDMENTS

Subsection (m)(1) was updated to include a reference to new Rule 19, which identifies debt collection and subrogation cases subject to the 90-day time limit for proof of service.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The rule has also been reorganized to more closely mirror Civil Rule 4, including the addition of specific provisions for serving an individual within the United States; serving

a minor or incompetent person within the United States; serving a corporation, partnership, or association within the United States; serving the District of Columbia, an agency or officer of the District of Columbia, or other government entities subject to suit; and serving required materials after the court grants a motion for extension of time to serve. Finally, the time limit for filing proof of service in collections cases has been reduced from 180 to 90 days.

Rule 5. Pleadings

No party is required to file an answer, plea, or defense in writing, except to assert a set-off or counterclaim. All pleadings must be construed so as to do justice.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 6. Jury Demand

(a) MAKING A JURY DEMAND. On any issue triable of right by a jury, a party may demand a jury trial by serving the other parties with a written demand at or before the initial hearing, or by such extended time as the court may allow for good cause. The jury demand must be accompanied by:

(1) the fee required by rule or administrative order, unless the court has authorized the party to proceed without payment or prepayment of costs; and

(2) a verified answer setting out the facts on which the defense is based, if the jury demand is made by the defendant.

(b) CERTIFYING CASE TO CIVIL ACTIONS BRANCH. If a jury trial is properly demanded, the court must certify the case to the Civil Actions Branch for trial on an expedited basis.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 7. Trials

(a) **IN GENERAL.** All parties must appear for trial as specified in the notice, unless the case has been continued in accordance with Rule 7(c).

(b) **CONFIRMING TRIAL DATE.** In any case in which both parties are represented by counsel, it is the duty of the defendant's attorney to promptly attempt to contact the plaintiff's attorney to confirm the trial date specified in the notice or to seek agreement on a continued date.

(c) **CONTINUANCES.**

(1) *By the Clerk.* The clerk may continue any case once as a matter of course for up to 30 days on a showing that:

(A) the defendant received notice of the trial less than 7 days before the trial date; or

(B) the parties have mutually agreed to a continuance.

(2) *By the Court.* The court may continue any case on a showing of good cause.

(3) *Notice to Parties.* When a continuance is ordered, the clerk must furnish the parties with a notice showing the date and time to which the case has been continued.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Former sections (a) and (b) have been eliminated because they addressed administrative processes.

Rule 8. Certification to the Civil Actions Branch

With the approval of the Presiding Judge of the Civil Division and when the interests of justice require, the court may certify any action brought in this branch to the Civil Actions Branch.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The last sentence has been deleted as redundant because Rule 1 already states that actions certified under Rule 8 are subject to the civil rules.

Rule 9. Persons Appearing in a Representative Capacity

(a) IN GENERAL. Except as provided in Rule 9(b) and (c) and District of Columbia Court of Appeals Rule 49(c), only members in good standing of the District of Columbia Bar are permitted to appear in this branch in a representative capacity for any purpose other than securing a continuance.

(b) CORPORATIONS AND PARTNERSHIPS. No corporation or partnership may appear as a plaintiff in this branch except through a member in good standing of the District of Columbia Bar. Corporations and partnerships may appear as defendants as provided in District of Columbia Court of Appeals Rule 49(c)(11).

(c) LAW STUDENTS. Any law student admitted to the limited practice of law under District of Columbia Court of Appeals Rule 48 may engage in the limited practice of law in the Small Claims and Conciliation Branch subject to the provisions of Civil Rule 101(e).

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. The term “partnership” was added to section (b) to reflect a similar change to District of Columbia Court of Appeals Rule 49(c)(11), where the relevant provision is now located.

COMMENT

District of Columbia Court of Appeals Rule 49(c)(6) allows a corporation to appear in defense of a small claim action through an authorized officer, director or employee. The Rule directs that the non-lawyer file along with his or her appearance an affidavit of a corporate officer vesting in the representative the requisite authority to bind the corporation at time of settlement or trial, and the Rule requires that the corporation be represented by a lawyer if the corporation files a cross-claim or a counterclaim, if the matter is appealed or if the matter is certified to the Civil Division.

Rule 10. Discovery

On application of a party or on its own initiative, the court, for good cause and with due regard for the expeditious and informal nature of the proceedings, may authorize a party to proceed with discovery under Civil Rules 26 through 37. In addition to the protective orders permitted by Civil Rule 26(c), the court may shorten the time within which a party is required to perform any act or make any response in connection with discovery. This rule applies to all actions filed in the Small Claims and Conciliation Branch, including those certified to the Civil Actions Branch under Rule 6.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 11. Preliminary Proceedings

At the beginning of each session of the court, the judge or magistrate judge must make an introductory statement, approved by the Chief Judge or his or her designee, that describes the procedures and legal framework governing cases.

COMMENT TO 2018 AMENDMENTS

This rule has been amended to reflect changes to and allow more flexibility in the preliminary procedures. Also, default provisions were moved to Rule 12, which addresses "Proceedings by the Court."

Rule 12. Proceedings by the Court

(a) **CALLING THE CALENDAR.** After the judge or magistrate judge completes the introductory statement, the clerk must call the cases scheduled for that day to determine which parties are present.

(b) **ENTRY OF A DEFAULT WHEN DEFENDANT FAILS TO APPEAR.**

(1) *In General.* When the plaintiff or the plaintiff's attorney is present and neither the defendant nor anyone purporting to speak on behalf of the defendant is present, the court must enter a judgment by default in favor of the plaintiff in the amount of any liquidated damages or enter a default subject to ex parte proof as to the amount of any unliquidated damages alleged in the statement of claim if:

(A) the court determines that proper service was made on the defendant; and

(B) the plaintiff has submitted a Civil Action Form 114 that complies with the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901-4043).

(2) *Actions for Property Damage.* In actions for property damage only, proof of unliquidated damages may be presented by affidavit as provided in Civil Rule 55-II.

(c) **REMEDIES WHEN PLAINTIFF FAILS TO APPEAR.** If the plaintiff fails to appear without prior notice to the court, the court may:

(1) dismiss the action for want of prosecution with or without prejudice;

(2) allow the defendant to proceed to trial on the merits; or

(3) continue the case for further proceedings on a later date.

(d) **REMEDIES WHEN BOTH PARTIES FAIL TO APPEAR.** If both parties fail to appear without prior notice to the court, the court may:

(1) dismiss the action without prejudice;

(2) continue the case; or

(3) make any other just and proper disposition that justice requires.

(e) **CONDUCT OF THE TRIAL.** If the parties fail to settle the controversy, the court must proceed with a trial on the merits of the case. The parties and witnesses must be sworn. The court must conduct the trial in a manner that does substantial justice between the parties according to the rules of substantive law and is not bound by the provisions or rules of practice, procedure, pleading, or evidence, except the provisions relating to privileged communications.

COMMENT TO 2018 AMENDMENTS

This rule has been amended to reflect changes in the preliminary procedures and to include the requirement of a Servicemembers Civil Relief Act form. The rule also includes default provisions previously found in Rule 11; the provisions were modified to indicate that the court, not clerk, would enter a default judgment.

Rule 13. Motions

(a) IN GENERAL. When a motion depends on facts not apparent in the record, the motion must be in writing and must include or be accompanied by a statement of points and authorities containing the facts and legal arguments on which the motion is based. The movant may support the motion with affidavits or other forms of sworn testimony, and the court may require the submission of evidence.

(b) FILING; NOTICE.

(1) *Self-Represented Parties*. Parties not represented by counsel must file all written motions in the clerk's office with necessary copies. The clerk must send notice of the motion to the opposing party, noting the date and method of service of the notice on the record.

(2) *Parties Represented by Counsel*. All parties represented by counsel must serve all written motions in accordance with Civil Rule 5. Beneath the certificate of service, the original motion and each copy must include the following statement: "THIS MOTION HAS BEEN SET FOR HEARING IN SMALL CLAIMS COURT ON _____ AT _____," inserting a date and time set by the clerk.

(c) SUMMARY JUDGMENT. Any party seeking to recover on or defend against a claim or counterclaim may file, at any time after the appearance date indicated in the summons, a motion for summary judgment on all or part of the claim or counterclaim in accordance with Civil Rule 56.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. This rule has also been amended to eliminate the automatic requirement for filing an affidavit or sworn testimony with a motion, but the court may still require it.

Rule 13-I. Motions and Discovery in Cases Certified to the Civil Actions Branch

The judge to whom a case has been assigned for a jury trial under Rule 6 will determine all motions pending in the case as of the date of assignment and all those filed after that date. Discovery in all cases assigned for a jury trial may be obtained only by leave of the court.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Rule 14. Costs

(a) AWARDING COSTS.

(1) *In General.* The court has discretion to award reasonable costs to either party, including the cost of bonds and undertakings, and other expenses incurred in the lawsuit. The court may award costs in a manner intended to discourage the filing of frivolous, vexatious, or false claims or defenses and to prevent interference with the administration of justice in this branch.

(2) *Service Costs.* When process is served by the marshal, or by registered or certified mail, the actual cost of service is taxable as a cost. When served by an individual specially appointed by the court or approved by the clerk, the cost of service, if any, is not taxable as a cost.

(b) **FAILURE TO PAY COSTS.** If any party fails to pay accrued costs, though able to do so, the court may deny that party the right to file any new case in this branch while the costs remain unpaid and deny the party the right to proceed further in any case pending in this branch.

COMMENT TO 2018 AMENDMENTS

Formerly Rule 15, this rule has been renumbered as Rule 14. Former Rule 14 was deleted as redundant because Civil Rule 202 is already incorporated by Rule 2.

This rule has also been amended consistent with the stylistic changes to the civil rules.

Rule 15. Judgment

(a) ENTRY OF JUDGMENT. A judgment must be entered at the time that the court's finding is entered.

(b) STAY OF EXECUTION. For good cause and on appropriate terms for the opposing party's security, the court may stay the execution of a judgment.

(c) SURRENDER OF CONTRACTS. When a judgment is based on a negotiable or non-negotiable instrument, or other contract under seal, the instrument or contract is merged in the judgment and the original document must be surrendered to the clerk and marked "cancelled."

(d) ENTRY OF JUDGMENT BY CONFESSION OR CONSENT. All requests for entry of judgment by confession or consent must be submitted to the court.

COMMENT TO 2018 AMENDMENTS

Formerly Rule 16, this rule has been renumbered as Rule 15. This rule has also been amended consistent with the stylistic changes to the civil rules. Additionally, section (b) has been deleted, eliminating provisions that were inconsistent with Civil Rule 59, which is incorporated by Rule 2. New section (d) requires all requests for entry of judgment by confession or consent to be submitted to the court.

Rule 16. Installment Payment of Judgment

(a) ORDER OF INSTALLMENT JUDGMENT. When a judgment is ordered paid in installments, the clerk must furnish the judgment defendant, by mail, with a memorandum that includes:

- (1) the dates on which the payments are due;
- (2) the amounts in which the payments are to be made; and
- (3) a warning to the judgment defendant that the stay of execution will be vacated on any default by the judgment defendant, without just excuse.

(b) DEFAULT ON INSTALLMENT JUDGMENT. On a showing, by the judgment plaintiff or the judgment plaintiff's agent or attorney, that the defendant has failed to comply with the order, the case must be set for a hearing, with reasonable notice by mail to the judgment defendant, to determine whether to vacate the stay of execution. If the stay is vacated or no stay is granted, the judgment plaintiff has the right to use all remedies otherwise available in the Civil Actions Branch for the enforcement of the judgment.

COMMENT TO 2018 AMENDMENTS

Formerly Rule 17, this rule has been renumbered as Rule 16. This rule has also been amended consistent with the stylistic changes to the civil rules.

Rule 17. Supplementary Proceedings in Wage Claims

In all cases where the judgment is based, in whole or in part, on a claim for wages or personal services, the court must, on written or oral motion of the party obtaining judgment, order the appearance of the party against whom the judgment has been entered for oral examination under oath as to his or her financial status and his or her ability to pay the judgment. The order must not require the party against whom the judgment was entered to appear more often than once every 4 weeks. The court must make supplementary orders as are just and proper to effectuate the payment of the judgment on reasonable terms.

COMMENT TO 2018 AMENDMENTS

Formerly Rule 18, this rule has been renumbered as Rule 17. This rule has also been amended consistent with the stylistic changes to the civil rules, and the proviso in the last sentence was removed to track D.C. Code § 16-3908 (2012 Repl.).

Rule 18. Attorney's Fees

(a) IN GENERAL. Attorney's fees are not awarded in an action in this branch unless the plaintiff's attorney:

(1) provides to the court the instrument or agreement on which the claim for attorney's fees is based;

(2) certifies in writing that the fee claimed is payable only and entirely to him or her; and

(3) certifies in writing that he or she has no agreement with the plaintiff and will not enter one that will make any part of the attorney's fees payable to anyone other than the attorney.

(b) LIMITATION ON ATTORNEY'S FEES. Attorney's fees awarded under this rule may not exceed 15 percent of the plaintiff's recovery unless the plaintiff establishes exceptional circumstances.

COMMENT TO 2018 AMENDMENTS

Formerly Rule 19, this rule has been renumbered as Rule 18. This rule has also been amended consistent with the stylistic changes to the civil rules.

Rule 19. Collection and Subrogation Cases

(a) **APPLICABILITY.** This rule applies to all small claims actions in which the action is for:

- (1) collection of a liquidated debt involving:
 - (A) a credit card or credit account;
 - (B) a medical bill; or
 - (C) a loan or other financial obligation that a commercial entity seeks to collect or enforce; or
- (2) recovery as a subrogee-insurer.

(b) **PARTICULAR PLEADING REQUIREMENTS.**

(1) *Original Creditor.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A) and is not the original creditor, the statement of claim must include:

- (A) the identity of the original creditor; and
- (B) a statement that the plaintiff is the successor in interest.

(2) *Credit Card or Account.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A), the statement of claim must inform the defendant that an account statement is attached.

(3) *Prejudgment Interest.*

(A) *In General.* If the plaintiff's claim includes a claim for prejudgment interest, the statement of claim must include:

- (i) the prejudgment interest rate;
- (ii) the date from which the interest has run;
- (iii) the total dollar amount of prejudgment interest already accrued as of a date specified by the plaintiff and not more than 30 days prior to the filing of the action; and
- (iv) if applicable, a statement that the amount of prejudgment interest is only good through the stated date and that the amount will increase after that date as interest continues to accrue.

(B) *Closed or Charged-Off Account.* In actions based on accounts described in Rule 19(a)(1) that have been closed or charged off, the term "prejudgment interest" refers only to interest added or charged to the account after the account closing or charge-off.

(c) **TIME ALLOWED FOR SERVICE OF PROCESS.** As required by Rule 4(m)(1), proof of service of the materials required by Rule 4(a) must be made no later than 90 days after the filing of the statement of the claim. Failure to comply with the requirements of this rule will result in the dismissal without prejudice of the statement of claim. The clerk will enter the dismissal and serve notice on the parties.

(d) **EXTENSION OF TIME FOR SERVICE OF PROCESS.** Notwithstanding the provisions of Civil Rule 6(b), the time allowed for service of process of statements of claim covered by this rule will not be extended unless a motion for extension of time is filed within 90 days after the filing of the statement of claim. The motion must state in detail the efforts that have been made, and will be made in the future, to obtain service. If the plaintiff shows exceptional circumstances requiring an extension, the court must extend the time for an appropriate period.

(e) **PLAINTIFF'S CONSENT TO MAGISTRATE JUDGE CALENDAR.** When filing a statement of claim covered by this rule, the plaintiff may file a written consent to have the statement of claim 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 appeared or otherwise responded to the statement of claim.

COMMENT TO 2019 AMENDMENTS

This rule is new; it establishes specific processes and procedures for small claims actions identified in section (a). As used in this rule, “charge off” means the act of a creditor that treats an account receivable or other debt as a loss or expense because payment is unlikely.

Arbitration Rule 1. Judge as Arbitrator

The judge sitting in this branch may serve as arbitrator, either alone or in conjunction with other persons appointed by the court. The procedure must be as provided by D.C. Code § 11-1322 (2012 Repl.), or on written stipulation between the parties or their counsel. Fees are as set forth in Civil Rule 202. The court, in its discretion, may waive or reduce the fees or require them to be deposited in advance in the court registry.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 2. Consent to Arbitration

All persons requesting arbitration must sign a consent that contains the name(s) of the arbitrator(s), a brief statement of the matter to be decided, and a statement that they will abide by these rules and the arbitrator's award. The consent must be filed with the clerk.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 3. Hearing; Taking Evidence; Additional Fees

The arbitrator(s) must promptly set a time to hear the controversy. Arbitrators are not bound by the law of evidence, but may receive evidence in any way determined by the arbitrator(s) to be equitable and proper. The parties may be represented by counsel. Arbitrators may not charge the parties for any expenses, except with the parties' written consent.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 4. Withdrawing from Arbitration

After the hearing has commenced, no party may withdraw from the arbitration unless:

- (1) all parties consent and the arbitrator approves; or
- (2) the arbitrator directs a termination of the proceedings.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Additionally, the rule now requires the arbitrator's approval even where all parties consent to withdrawal from arbitration.

Arbitration Rule 5. Written Award

The arbitrator must issue the award in writing and promptly file it, together with any opinion, with the clerk. A copy will be provided to each party.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Arbitration Rule 6. Recording the Award

The clerk must record the award in the docket.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules.

Conciliation Rules 1-4. [Deleted].

COMMENT TO 2018 AMENDMENTS

The conciliation rules have been deleted as unnecessary based on the establishment of the Multi-Door Dispute Resolution Division. Conciliation efforts are still mandatory under D.C. Code § 16-3906 (2012 Repl.).