

## **Rule 9. Conduct of Hearings**

### **(a) Representation by counsel.**

(1) By private counsel. Whenever a petition for a civil protection order or a motion pursuant to these rules is filed by a petitioner, at his or her initiative, the petitioner and the respondent may be represented by private counsel.

(2) Representation by the Corporation Counsel. Whenever a petition for a civil protection order or a motion pursuant to these rules is filed by the Corporation Counsel, the Corporation Counsel shall represent the petitioner unless private counsel enters an appearance in the case or the Court permits the Corporation Counsel to withdraw.

### **(b) Evidence.**

(1) Under oath. In all fact-finding hearings the testimony of witnesses shall be taken under oath or affirmation.

(2) Non-jury hearing. The Court shall, without a jury, hear and adjudicate petitions for civil protection orders and all motions made pursuant to these rules.

(3) Who may present evidence. Whenever a petition for a civil protection order or a motion pursuant to these rules is filed, both the petitioner and the respondent may present evidence, including their own testimony and testimony of other witnesses, and physical evidence.

#### **(4) Admissible evidence.**

(A) Evidence that is competent, material and relevant shall be admissible at fact-finding hearings.

(B) Pursuant to *D.C. Code § 16-1005(b)*, notwithstanding *D.C. Code § 14-306*, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but such testimony be inadmissible as evidence in a criminal trial, over the objection of a spouse entitled to claim that privilege.

(5) Prohibition against use of testimony against respondent in a criminal action. Pursuant to *D.C. Code § 16-1002(c)*, testimony of the respondent in a proceeding for a civil protection order or temporary protection order shall be inadmissible as evidence in a criminal trial except in a prosecution for perjury or false statement.

(6) Level of proof required for civil protection order. If the Court finds in a fact-finding hearing that there is good cause to believe the allegations in the petition, the Court may issue the civil protection order.

(c) Findings. At the conclusion of a contested hearing, the Court shall make those findings of fact essential to the ultimate conclusion of law.