

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 24-02

(Amending Super. Ct. Civ. R. 4, 6, 15, and 84)

WHEREAS, pursuant to D.C. Code § 11-946 (2012 Repl.), the Board of Judges of the Superior Court approved amendments to Superior Court Rules of Civil Procedure 4, 6, 15, and 84; and

WHEREAS, pursuant to D.C. Code § 11-946 (2012 Repl.), the amendments to these rules, to the extent that they modify the federal rules, have been approved by the District of Columbia Court of Appeals; it is

ORDERED, that Superior Court Rules of Civil Procedure 4, 6, 15, and 84 are hereby amended as set forth below; and it is further

ORDERED, that the amendments shall take effect immediately and shall govern all proceedings hereafter commenced and, insofar as just and practicable, all pending proceedings.

[Civil] Rule 4. Summons

(c) SERVICE.

(1) In General. A summons must be served with a copy of the complaint, the Initial Order setting the case for an initial scheduling and settlement conference, any addendum to that order, any order under Rule 4(e)(3) permitting an alternative method of service, and any other order directed by the court to the parties at the time of filing. The plaintiff is responsible for having the summons, complaint, Initial Order, any addendum to that order, and any other order directed by the court to the parties at the time of filing served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

(7) Emergency Declaration Authorizing Alternative Methods of Service.

(A) In general. To the extent authorized by emergency order of the Chief Judge pursuant to D.C. Code § 11-947, service on any defendant described in Rule 4(e), (h)(1), (i), (j)(2), and (j)(3) may be effected using a method of service that is reasonably calculated to give actual notice of the action to the party to be served.

(B) Diligent Efforts Not Required. Unless otherwise ordered by the court, the serving party is not required to make diligent efforts to accomplish service by methods prescribed by Rule 4(e)(3)(C) in the event of an emergency declaration under Rule 4(c)(7)(A).

(C) Proof of Service. The proof of service filed by the serving party must establish that the alternative method used was reasonably calculated to give actual notice of the action to the party being served.

(d) [Omitted].

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

(1) following District of Columbia law, or the state law for serving a summons 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 summons, complaint, Initial Order, any addendum to that order, and any other order directed by the court to the parties at the time of filing to the individual personally;

(B) leaving a copy of each 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 each to an agent authorized by appointment or by law to receive service of process.

(3) *Alternative Methods of Service.*

(A) *In General.* If the court determines that, after diligent effort, a party has been unable to accomplish service by a method prescribed in Rule 4(c) or (e)(1)-(2), the court

may permit an alternative method of service that the court determines is reasonably calculated to give actual notice of the action to the party to be served.

(B) *Examples.* Alternative methods of service include:

(i) delivering a copy to the individual's employer by leaving it at the individual's place of employment with a clerk or other person in charge;

(ii) transmitting a copy to the individual by electronic mail if the serving party:

(a) shows that the party to be served used this method for successful communication within the past 6 months; and

(b) sends a copy, by first class mail, to the last-known business or residential address of the person to be served; or

(iii) any other manner that the court deems just and reasonable.

(C) *Proof of Diligent Efforts.* The party seeking to use an alternative method of service must file a motion with an affidavit specifying the diligent efforts to serve by methods prescribed in Rule 4(c) or (e)(1)-(2).

(D) *Proof of Service.* The court may specify how the party must prove that service was accomplished by the alternative method.

(g) **SERVING A MINOR OR AN INCOMPETENT PERSON.** 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 a summons or like process on such a defendant in an action brought in the courts of general jurisdiction of the state where service is made. A minor or an incompetent person who is not within the United States must be served in the manner prescribed by Rule 4(f)(2)(A), (f)(2)(B), or (f)(3).

COMMENT TO 2024 AMENDMENTS

New subsection (c)(7) implements the applicable provisions of new *Federal Rule of Civil Procedure 87*, which was adopted in 2023. Subsection (g) has been amended consistent with the general restyling of the Superior Court rules.

COMMENT TO 2021 AMENDMENTS

New subsection (e)(3) permits the court to authorize an alternative means of service if the serving party is unable to accomplish service using a traditional method and if the alternative method is reasonably calculated to give actual notice to the party being served. Subsection (e)(4) permits the court to authorize posting on the court's website when a plaintiff is unable to pay the cost of publication.

Rule 6. Computing and Extending Time; Time for Motion Papers

(a) COMPUTING TIME.

(6) *“Legal Holiday” Defined.* "Legal holiday" means:

(A) the day set aside by statute for observing New Year’s Day, Martin Luther King Jr.’s Birthday, Washington’s Birthday, District of Columbia Emancipation Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, or Christmas Day; and

(B) any day declared a holiday by the President or Congress, or observed as a holiday by the court.

(C) [Omitted]

(b) EXTENDING TIME.

(1) *In General.* When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if the request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) *Exceptions.* A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b).

(3) *Emergency Declaration.* Notwithstanding Rule 6(b)(2), the Court may, by order, extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b), to the extent authorized by emergency order of the Chief Judge pursuant to D.C. Code § 11-947.

COMMENT TO 2024 AMENDMENTS

Subsection (a)(6)(A) has been amended to add the full title of the Juneteenth holiday consistent with the 2023 amendments to *Federal Rule of Civil Procedure 6(a)(6)(A)*. New subsection (b)(3) has been added in response to subsection (c)(2)(A) of new *Federal Rule of Civil Procedure 87*. The new federal rule permits an extension of no more than 30 days; this new Rule 6(b)(3), consistent with D.C. Code § 11-947, contains no such limitation.

COMMENT TO 2022 AMENDMENTS

Subsection (a)(6)(A) has been amended to include District of Columbia Emancipation Day and Juneteenth in the definition of legal holiday.

Rule 15. Amended and Supplemental Pleadings

(a) AMENDMENTS BEFORE TRIAL.

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course ~~within~~no later than:

(A) 21 days after serving it; or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

COMMENT TO 2024 AMENDMENT

Subsection (a)(1) has been amended to incorporate the 2023 amendments to Federal Rule of Civil Procedure 15 to clarify that the right to amend a pleading continues without interruption until 21 days after the earlier of the events described in subsection (a)(1)(B).

Rule 84. Forms

The forms in the Appendix of Forms suffice under these rules and illustrate the simplicity and brevity that these rules contemplate. Any form contained within the Appendix of Forms or referred to in any court rule governing proceedings in any branch of the Civil Division of the Superior Court may be modified in the discretion of the Chief Judge, the Clerk of the Court, or a designee of either.

COMMENT TO 2024 AMENDMENTS

This rule has been amended to clarify that any form used in the Civil Division may be modified in the discretion of the Chief Judge, the Clerk of the Court, or a designee of either.

COMMENT TO 2017 AMENDMENTS

In 2015, *Federal Rule of Civil Procedure 84* was abrogated because there were other sources for forms—including court websites and law libraries. Any necessary forms were directly incorporated into the relevant rule (for example, former federal Forms 5 and 6 were incorporated into Federal Rule 4). This approach was rejected as inconsistent with the needs and processes of the Superior Court.

COMMENT

Identical to Federal Rule of Civil Procedure 84

Rule 87. [Omitted]

COMMENT

Federal Rule of Civil Procedure 87, which addresses civil rules emergencies, is not incorporated. Instead, the applicable provisions of subsection (c)(1) of the federal rule dealing with emergency alternative service have been incorporated into Rule 4, and the applicable provisions of subsection (c)(2)(A) of the federal rule dealing with emergency extension of time to file certain motions have been incorporated into Rule 6.

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(B) *Diligent Efforts Not Required.* Unless otherwise ordered by the court, the serving party is not required to make diligent efforts to accomplish service by methods prescribed by Rule 4(e)(3)(C) in the event of an emergency declaration under Rule 4(c)(7)(A).

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(B) any day declared a holiday by the President or Congress, or observed as a holiday by the court.

(C) [Omitted]

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COMMENT

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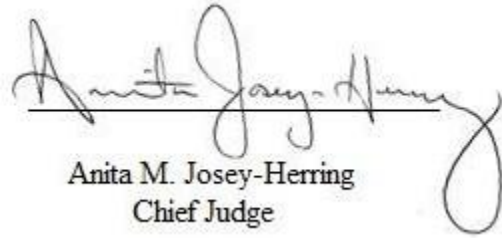
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* * *

SO ORDERED.



Anita M. Josey-Herring
Chief Judge

Date: June 10, 2024

Copies to:

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Clerk of the Court
Office of General Counsel
Division Directors
District of Columbia Bar
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