

## **SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

### **Notice of Proposed Amendments to Rule 5 and 16 of the Rules of Civil Procedure and to Rule 4 of the Rules of Criminal Procedure**

The District of Columbia Superior Court Rules Committee recently completed review of proposed amendments to Rule 5 and 16 of the Superior Court Rules of Civil Procedure and proposed amendments to Rule 4 of the Superior Court Rules of Criminal Procedure. The Rules Committee will recommend to the Superior Court Board of Judges that the amendments be approved and adopted unless, after consideration of comments from the Bar and the general public, the proposed amendments are withdrawn or modified.

Written comments must be submitted by 10:00 am ET on March 31, 2026. Comments should be addressed to Chair, Superior Court Rules Committee and submitted by email to [OfficeGeneralCounsel@dccsystem.gov](mailto:OfficeGeneralCounsel@dccsystem.gov) or mailed to:

Office of General Counsel  
Attention: Superior Court Rules Committee  
District of Columbia Courts  
500 Indiana Avenue, N.W., Room C620  
Washington, D.C. 20001

All comments submitted in response to this notice will be available to the public. New language is underlined, and deleted language is stricken through.

**[Civil] Rule 16. Pretrial Conferences; Pretrial Status Conferences; Scheduling; Management**

(a) APPLICABILITY. Unless otherwise ordered by the judge to whom the case is assigned, the provisions of this rule apply to all civil actions and to both small claims and landlord and tenant actions ~~certified~~ transferred to the Civil Actions Branch for jury trial.

(b) INITIAL SCHEDULING AND SETTLEMENT CONFERENCE.

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- (4) *Contents of the Order*. The scheduling order may:
- (A) modify the extent of discovery;
  - (B) provide for discovery or preservation of electronically stored information;
  - (C) include the timing and method for complying with Rule 26(b)(5)(A) and any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements on the effects of disclosure reached under Rule 26(b)(5)(C);
  - (D) direct that before moving for an order relating to discovery, the movant must request a conference with the court;
  - (E) set dates for pretrial conferences and for trial; and
  - (F) include other appropriate matters.
- (5) *Scheduling Order; Deadlines*. Where applicable, the order will specify dates for the following events:
- (A) *Discovery Requests; Depositions*.
    - (i) No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served less than 30 days before the date set for the end of discovery.
    - (ii) Party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum must be noticed not less than 5 days before the date scheduled for the deposition and no deposition may be noticed to take place after the date set for the conclusion of discovery.
  - (B) ~~*Exchange Lists of Fact Witnesses*~~. On or before this date, each party must file and serve a listing, by name and address, of all fact witnesses known to that party, including experts who participated in, and will testify about, pertinent events. Except for the plaintiff's rebuttal case or for impeachment purposes, no party may offer at trial the testimony of any fact witness not timely disclosed on a witness list without leave of court. ~~No witness may be called at trial, except for rebuttal or impeachment purposes, unless he or she was named on the list filed by one of the parties on or before this date or the calling party can establish that it did not learn of the witness until after this date.~~
  - (C) *Proponent's Rule 26(a)(2)(B) Report*. By this date, a report required by Rule 26(a)(2)(B) must be ~~filed and~~ served by any proponent of an issue who will offer an expert opinion on such an issue.
  - (D) *Opponent's Rule 26(a)(2)(B) Report*. By this date, a report required by Rule 26(a)(2)(B) must be ~~filed and~~ served by any opponent who will offer an expert opinion on such an issue.

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(e) ONE WEEK PRIOR TO PRETRIAL CONFERENCE.

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(3) *Unlisted Witnesses or Exhibits*. Except for [the](#) plaintiff's rebuttal case or for impeachment purposes, no party may offer at trial the testimony of any witness not listed in the pretrial statement of the parties, nor any exhibit not served as required by this rule, without leave of court.

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### COMMENT TO 2026 AMENDMENTS

Section (a) has been amended to substitute “transferred” for “certified” to conform with the general restyling of the Superior Court rules.

Subsection (b)(4)(C) has been amended consistent with the 2025 amendments to Federal Rule of Civil Procedure 16(b)(3)(B)(iv). Subsections (b)(5)(C) and (b)(5)(D) have also been amended to clarify that expert reports under Rule 26(a)(2)(B) must not be filed except by court order, consistent with the 2022 amendments to Rule 5(d) and federal practice. Subsection (b)(5)(B) has been amended to remove the requirement that a fact witness not timely named on a party’s witness list be precluded from testifying at trial unless the party seeking to call the witness at trial establishes that it did not learn of the witness until after the deadline for filing witness lists set in the scheduling order. The requirement of exclusion was inconsistent with governing case law granting the court broad discretion to determine, based on an analysis of relevant factors, whether a party should be permitted at trial to present the testimony of a fact witness who was not timely named in a witness list. See *Wash. Nat’ls Stadium, LLC v. Arenas, Parks & Stadium Sols., Inc.*, 192 A.3d 581, 585 (D.C. 2018); *Hechinger Co. v. Johnson*, 761 A.2d 15, 22-23 (D.C. 2000); *Glorious Food v. Georgetown Prospect Place Assocs.*, 648 A.2d 946, 949 (D.C. 1994).

Subsection (e)(3) has been amended to correct a minor drafting error.

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## [Civil] Rule 5. Serving and Filing Pleadings and Other Papers

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(d) FILING.

(1) *Required Filings*. Any paper after the complaint that is required to be served, other than those referred to in Rule 5(d)(2) and Rule 12-l(d) and (e), must be filed no later than 7 days after service.

(2) *Discovery Requests and Responses*.

(A) *Without Leave of Court*. Discovery requests and responses, [including reports under Rule 26\(a\)\(2\)\(B\)](#), may be filed, without leave of court, if they are:

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### COMMENT TO 2026 AMENDMENTS

Subsection (d)(2)(A) has been amended consistent with the 2026 Amendments to Rule 16(b)(5)(C) and (b)(5)(D) to clarify that expert reports under Rule 26(a)(2)(B) must not be filed except by court order.

### COMMENT TO 2022 AMENDMENTS

Amendments to Rule 5(d) clarify that discovery materials should not be filed except in the circumstances specified in the rule. Consistent with the 2022 amendment to Rule 12-l, the reference to a memorandum of points and authorities was deleted from Rule 5(d)(4). Subsections (d)(5)(E)-(G) and subsection (d)(7)(C) were amended to address technical and functional changes necessary to implement the court's new case management system.

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## [Crim.] Rule 4. Arrest Warrant or Summons on a Complaint

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### (d) EXECUTION OR SERVICE, AND RETURN.

(1) *By Whom.* Only a law enforcement officer or other authorized officer may execute a warrant. The summons may be served by any person authorized to serve a summons in a civil action in the Superior Court or by any officer authorized to execute an arrest warrant.

(2) *Territorial Limits.* A warrant or summons for a felony under D.C. Code §§ 16-1022 and -1024 (~~2012 Repl. & 2017 Supp.~~) or for an offense punishable by imprisonment for more than 1 year may be executed or served at any place within the jurisdiction of the United States. A warrant or summons for an offense punishable by imprisonment for not more than 1 year, or by a fine only, or by such imprisonment and a fine, may be executed or served:

- (i) in any place in the District of Columbia; or
- (ii) at any place within the jurisdiction of the United States if the court finds good cause under D.C. Code § 23-563(b).

(3) *Time Limit.* An arrest warrant or summons for an offense punishable by imprisonment for not more than 1 year, or by a fine only, or by such imprisonment and a fine, may not be executed more than 1 year after the date of issuance.

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### COMMENT TO 2026 AMENDMENTS

Subsection (d)(2) has been amended to conform to a 2024 amendment to D.C. Code § 23-563 authorizing service of a misdemeanor warrant or summons at any place within the jurisdiction of the United States if the court finds good cause. Subsection (d)(2) also has been amended to delete the citation to the D.C. Code year consistent with the general restyling of the Superior Court Rules and the Court of Appeals current Citation and Style Guide.

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