

Rule 4. Process

(a) Issuance.

(1) Summons. In cases in which a Domestic Relations action is initiated by complaint, a completed summons with copies for each defendant named in the complaint shall be delivered to the Clerk at the time the complaint is filed, except actions for reciprocal support under D.C. Code § 11-1101(10). If reissued, separate, or additional process is required, a completed summons for such process shall also be delivered to the Clerk. The Clerk shall record the date of filing and return all summonses to the plaintiff or the plaintiff's agent for service of process by special process server, mail, by the Marshal or in any manner set forth in paragraph (c) of this Rule. In cases where a post-judgment motion is filed (1) after the appearance of counsel of the party to be served has been terminated pursuant to SCR-Dom Rel 101(e)(4), or (2) 60 or more days after judgment and the party to be served was not represented by counsel at the time of the entry of judgment, the motion shall be accompanied by a summons and served pursuant to paragraph (c) of this Rule.

(2) Notice of hearing and order directing appearance. In cases in which a Domestic Relations action is initiated by petition, a Notice of Hearing and Order Directing Appearance, with copies for each named defendant or individual whose attendance is otherwise required, shall be filed with the Clerk. A Notice of Hearing and Order Directing Appearance shall bear the name and seal of the Court and the title of the action. It shall command the person to whom it is directed to appear on a date and at a time specified therein. The Clerk shall set the matter for hearing and deliver all such notices for service to the petitioner or the petitioner's agent. Service shall be made by special process server as provided for in subparagraph (c)(1) of this Rule, by the Marshal, or in any other manner authorized by an applicable statute, rule or order of the Court.

(3) Orders to show cause. In proceedings in which an order to show cause is required or allowed by the Court or by statute, a completed order, with sufficient copies for each defendant or other individual to be served, shall be filed with the Clerk and delivered for service by the moving party or the moving party's agent. Service shall be made by special process server as provided for in subparagraph (c)(1) of this Rule, by the Marshal, or in any other manner authorized by applicable statute, rule or order of the Court.

(b) Summons: Form. The summons shall be signed by the Clerk, be under the seal of the Court, contain the name of the Court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any (otherwise the plaintiff's address), and the time within which these Rules require the defendant to respond, and shall notify the defendant that in case of the defendant's failure to do so action can be taken against the defendant for the relief demanded in the complaint. When, under SCR-Dom Rel 4(e), service is made pursuant to a statute or Rule of Court of the District of Columbia, the summons or notice, or order in lieu of summons shall correspond to the requirements of the statute or Rule.

(c) Summons: How served. Service of process shall be made in one of the following ways which may, at the plaintiff's election, be attempted either concurrently or successively:

(1) By any competent person 18 years of age or older who is not a party to the suit. Proof of service shall be made under oath and specifically state each of the following: The caption and number of the case; the special process server's name, residential and business addresses, and the fact that the process server is at least 18 years of age; the

date, time and place at which service was effected and on whom it was effected; and 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 paragraph (d) of this Rule.

(2) By mailing a copy of the summons and complaint to the defendant by registered or certified mail and filing with the Clerk the signed return receipt attached to an affidavit which shall specifically state each of the following: The caption and number of the case; the date when the summons and complaint were mailed and by whom; and, if the return receipt does not purport to be signed by the party named in the summons, then specific facts from which the Court can determine that the person who signed the receipt meets the appropriate qualifications for receipt of process set out in paragraph (d) of this Rule. Service shall be deemed made as of the date the return receipt was signed, or if that date is not indicated, the date stamped by the U.S. Postal Service upon delivery.

(3) By the Metropolitan Police Department pursuant to D.C. Code § 13-302.1.

(4) By the Marshal.

(5) By publication pursuant to D.C. Code § 13-336 or by posting pursuant to D.C. Code § 13-340(a).

(6) In any manner authorized by paragraph (e) of this Rule.

(7) By written acknowledgment or waiver of service signed by the person to be served, under oath before a notary.

(8) In any other manner authorized by applicable statute.

(d) Personal service: Notice of hearing and order directing appearance, order to show cause and summons. In cases within SCR-Dom Rel 4(a)(2) and (3) above, involving service of a Notice of Hearing and Order Directing Appearance or an Order to Show Cause, service shall be made upon the defendant, respondent or other named person by delivering to that individual personally a copy of the petition along with the Notice of Hearing and Order Directing Appearance or the Order to Show Cause, unless otherwise ordered by the Court upon a showing of good cause.

In cases within subparagraph 4(a)(1) of this Rule, the summons and complaint shall be served in one of the following ways:

(1) Upon an individual other than a minor or an incompetent person, by delivering the service copies of the summons and complaint to the individual personally or by leaving them at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then living there or by delivering the service copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.

(2) Upon a minor or an incompetent person, by serving the service copy of the summons and complaint in the manner prescribed by the law of the District of Columbia or of the state in which the service is made.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the service copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by and in accordance with law to receive service of process.

(4) Upon a defendant of any class referred to in subparagraph (d)(1) or (3) of this Rule, by any other means prescribed by the law of the District of Columbia.

(e) Service outside the District of Columbia. Whenever an applicable statute or Rule of Court provides for service of process upon or notice to a party outside of the District of Columbia, service and proof of service may be made under the circumstances and in the manner prescribed in the statute or Rule.

(f) Service by publication. When service by publication is authorized by the Court, publication shall be in at least one legal newspaper or periodical of daily circulation for the prescribed time in addition to any other newspaper or periodical specifically designated by the Court. Publication shall be proved by affidavit of an officer or agent of the publisher stating the dates of publication with an attached copy of the document as published. For purposes of this Rule, a legal newspaper or periodical of daily circulation shall mean a publication designated by the Court that is (1) devoted primarily to publication of opinions, notices and other information from the courts of the District of Columbia, (2) circulated generally to the legal community, and (3) published at least on each weekday that the Superior Court is in session.

(g) Service by posting. Upon a showing that publication pursuant to paragraph (f) would impose a substantial hardship, the Court may order publication by posting or in any other manner prescribed by D.C. Code § 13-340(a).

(h) Territorial limits of effective service.

(1) All process may be served anywhere within the territorial limits of the District of Columbia, and, only when authorized by a statute or by these Rules, beyond the territorial limits of the District.

(2) Persons who are brought in as parties pursuant to SCR-Dom Rel 19 may be served in the manner stated in subparagraphs (d)(1)-(3) of this Rule at all places outside the District that are not more than 100 miles from the Superior Court; and persons required to respond to an order of commitment for civil contempt may be served at the same places.

(i) Alternative provisions for service in a foreign country.

When the applicable law referred to in paragraph (e) of this Rule authorizes service upon a party in a foreign country, it is also sufficient if service is made:

(1) By any applicable, internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) If there is no applicable, internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country:

(i) upon an individual, by delivery to the individual personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or

(ii) by any form of mail requiring a signed receipt, to be addressed and mailed to the party to be served; or

(iii) as directed by order of the Court.

Service under (C)(i) and (C)(iii) above may be made by any person who is not a party and is not less than 18 years of age or who is designated by order of this Court or by the foreign court. On request, the Clerk shall deliver the summons to the plaintiff for transmission to the person or the foreign court or officer who will make service.

(j) Proof of service. Except where service has been waived, proof of service shall be made in one of the following ways:

(1) If service is made within the United States, proof shall be made to the Court in accordance with the time limits in paragraph (1) of this Rule.

(2) If service is made in a foreign country, proof may be made in accordance with the time limits of paragraph (1) of this Rule, or by the law of the foreign country, or by order of the Court. If such service is made by any form of mail requiring a signed receipt, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the Court, and, if the return receipt does not purport to be signed by the party named in the summons or notice, then specific facts from which the Court can determine that the person who signed the receipt meets the appropriate qualifications for receipt of process set out in paragraph (d) of this Rule.

Failure to make proof of service does not affect the validity of the service.

(k) Amendment. At any time in its discretion and upon such terms as it deems just, the Court may allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process was issued.

(l) Time limit for service. Within 60 days of the filing of the complaint, the plaintiff must file proof of service of the summons, the complaint and any order directed by the Court to the parties at the time of filing. The proof shall be filed as to each defendant who has not responded to the complaint. Prior to the expiration of the foregoing time period, a request may be made by praecipe to extend the time for service. The praecipe shall include a certificate of good faith efforts to complete service by the attorney. Upon presentation of the request and certification the Clerk shall re-issue a summons for one additional 60 day period. If time in excess of the 120 days is required the party may file a motion for additional time. Failure to comply with the requirements of this Rule shall result in the dismissal without prejudice of the complaint. The Clerk shall enter the dismissal and shall serve notice of it on all the parties entitled to such notice.

COMMENT

Subparagraph (a)(2) of this Rule provides for the use of a Notice of Hearing and Order Directing Appearance (NOHODA) in cases initiated by petition. Pursuant to SCR-General Family H, this process is signed by the Clerk of the Division and has the same force and effect as a civil subpoena. In cases seeking to establish paternity, D.C. Code § 46-206(b) permits personal service of the NOHODA by a combination of first class and certified mail. Such service is not, however, a sufficient basis for issuance of a bench warrant for failure of the defendant to appear.

Paragraph (i) incorporates the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, and other applicable international agreements on service of

process. The applicability of an international agreement on service of process in a foreign country should be checked before other methods of service are attempted.

Where a party has been granted leave to proceed in forma pauperis, the 60-day time period in which proof of service of process must be filed under paragraph (l) will start to run at the time the summons is issued by the Clerk. See SCR-Dom Rel 54(f). For waiver of prepayment of costs, including filing fees, see SCR-Dom Rel 54(f).