# RULES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS

*(Revised effective November 30, 2016)*

## TITLE I. INTRODUCTION



## TITLE II. APPEALS FROM JUDGMENTS AND ORDERS OF THE SUPERIOR COURT



## TITLE III. REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES



## TITLE IV. EXTRAORDINARY WRITS; CERTIFICATION OF QUESTIONS OF LAW



## TITLE V. PROCEEDINGS IN FORMA PAUPERIS



## TITLE VI. GENERAL PROVISIONS

**Appendix of Forms.**

# TITLE I. INTRODUCTION

## Rule 1. Title and Scope of Rules; Definitions.

**(a) Title and Scope of Rules.**

**(1)** These rules, to be known as the Rules of the District of Columbia Court of Appeals, govern procedure in the District of Columbia Court of Appeals.

**(2)** When these rules provide for filing a motion or other document in the Superior Court of the District of Columbia, the procedure must comply with the practice of the Superior Court.

**(b) Definitions.** As used in these Rules:

**(1)** The term “affidavit” means either a declaration made under oath or a declaration conforming to 28 U.S.C. § 1746.

**(2)** The term "agency" means the Mayor as defined by D.C. Code § 2-502 (2001), or any subordinate or independent agency as defined by D.C. Code §§ 2-502 (3) through (5) (2001).

**(3)** The term "appeal" means any proceeding in this court initiated by a notice of appeal, a petition for review, or a recommendation from the Board on Professional Responsibility for disciplinary action against a member of the Bar.

**(4)** The terms "appellant" and "appellee" are synonymous with petitioner and respondent, respectively.

**(5)** The term “calendar days” includes Saturdays, Sundays, and legal holidays.

**(6)** The term “Clerk” means the Clerk of the District of Columbia Court of Appeals unless otherwise described.

**(7)** The term “costs” means those amounts other than fees, whether paid to the Superior Court or to a third party, that are necessary for prosecution of an appeal before this court.

**(8)** The term “court” means the District of Columbia Court of Appeals, unless otherwise described.

**(9)** The term “Court Reporter Division” means the Court Reporting and

Recording Division of the District of Columbia Courts.

**(10)** The term "division" means a panel of three judges of the District of Columbia Court of Appeals. See D.C. Code § 11-705 (2001).

**(11)** The term "Family Court" means the Family Court of the Superior Court of the District of Columbia.

**(12)** The term "fees" means the amount charged by this court or the Superior Court for the filing of a notice of appeal, a petition for review, an application for allowance of appeal, or a petition for extraordinary relief.

**(13)** The term "Form __" means a Form from the Appendix of Forms accompanying these rules.

**Rule 2. Seal.** The Clerk is the custodian of the seal, which is the means of authentication of all process, orders, and other papers requiring authentication by the court.

**Rule 2.1. Suspension of Rules.** On its own or a party's motion, the court may–to expedite its decision or for other good cause–suspend any provision of these rules in a particular matter and other procedures as it directs, except as otherwise provided in Rule 26 (b).

## TITLE II. APPEALS FROM JUDGMENTS AND ORDERS OF THE SUPERIOR COURT

**Rule 3. Appeal as of Right — How taken.**

**(a) Filing the Notice of Appeal.**

**(1)** An appeal permitted by law as of right from the Superior Court, including an expedited appeal, may be taken only by filing a notice of appeal with the Clerk of the Superior Court within the time allowed by Rule 4. Filing may be accomplished by mail addressed to the Clerk of the Superior Court; but — except as provided in Rule 4 (d) — filing will not be deemed timely unless the notice is, in fact, received by that Clerk within the prescribed time. If a timely notice of appeal is filed by a party, any other party to the proceeding in the Superior Court may file a notice of appeal within the time prescribed by Rule 4.

**(2)** An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the Court of Appeals to act as it considers appropriate, including dismissal of the appeal.

**(3)** An appeal from an order or judgment of a magistrate judge may be taken only after a judge of the Superior Court has reviewed the order or judgment. See D.C. Code § 11-1732 (k) (2001) and Super. Ct. Civ. R. 73 (c).

**(b) Joint or Consolidated Appeals.**

**(1)** When two or more parties are entitled to appeal from a judgment or order of the Superior Court, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

**(2)** When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the Court of Appeals, upon its own motion or upon motion of a party.

**(3)** When more than one appeal is docketed in the Court of Appeals from the same judgment or order and a single record on appeal has been prepared, the record will be docketed in each appeal but the Clerk will maintain the record in the Clerk's file bearing the lowest appeal number.

**(c) Contents of the Notice of Appeal.**

**(1)** The notice of appeal must:

**(A)** specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X"; and

**(B)** designate the judgment, order, or part thereof being appealed.

**(2)** The notice of appeal must be signed by the individual appellant or by counsel for the appellant. If the appellant is a corporation or other entity, the notice must be signed by counsel. A notice of appeal not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party. A pro se notice of appeal is considered filed on behalf of the signer and (if they are parties) the signer's spouse and minor children, unless the notice clearly indicates otherwise.

**(3)** In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.

**(4)** An appeal may not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.

**(5)** Parties are encouraged to use Form 1 in filing all but criminal appeals and Form

2 in criminal appeals, though the use of a particular form is not required. An appeal may be dismissed if, after notice, the party or parties taking the appeal fail to provide the information requested by Form 1 or Form 2.

**(d) Serving the Notice of Appeal.**

**(1)** The Clerk of the Superior Court must serve notice of the filing of a notice of appeal by mailing a copy to each party's counsel of record — excluding the appellant's — or, if a party is proceeding pro se, to the party's last known address. When a defendant in a criminal case appeals, the Clerk must also serve a copy of the notice of appeal on the defendant, either by personal service or by mail addressed to the defendant at the defendant's last known address. The Clerk must promptly send a copy of the notice of appeal and of the docket entries to the Clerk of the Court of Appeals. The Clerk of the Superior Court must note, on each copy, the date when the notice was filed.

**(2)** If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4 (d), the Clerk of the Superior Court must also note the date when the Clerk docketed the notice.

**(3)** The failure of the Clerk of the Superior Court to serve notice does not affect the validity of the appeal. That Clerk must transmit to the Clerk of the Court of Appeals the names of the parties to whom copies have been mailed and the date of mailing. Service is sufficient despite the death of a party or of the party's counsel.

**(e) Payment of Fees**. Upon filing a notice of appeal, the appellant must pay the Clerk of the Superior Court all required fees, unless permitted to proceed without prepayment of fees and costs. See Rule 24.

**Rule 4. Appeal as of Right — When taken.**

**(a) Appeal in a Civil Case.**

**(1) Time for Filing a Notice of Appeal.** The notice of appeal in a civil case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from which the appeal is taken unless a different time is specified by these Rules or the provisions of the District of Columbia Code. See, for example, D.C. Code § 17-307 (b) (2001) (small claims). An appeal from an order granting or denying an application for a writ of error coram nobis is an appeal in a civil case for purposes of Rule 4 (a).

**(2) Filing Before Entry of Judgment.** A notice of appeal filed after the court announces a decision or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry.

**(3) Multiple Appeals.** If one party files a timely notice of appeal, any other party to the proceeding in the Superior Court may file a notice of appeal within 14 days after the date on

which the first notice of appeal was filed, or within the time otherwise prescribed by Rule 4 (a)(1), whichever period ends later.

**(4) Effect of a Motion on a Notice of Appeal.**

**(A)** If a party timely files in the Superior Court any of the following motions under the rules of the Superior Court, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

**(i)** for judgment as a matter of law;

**(ii)** to amend or make additional factual findings, whether or not granting the motion would alter the judgment;

**(iii)** to vacate, alter, or amend the order or judgment;

**(iv)** for a new trial; or

**(v)** for relief from a judgment or order if the motion is filed no later than 10 days (computed using Superior Court Rule of Civil Procedure 6 (a)) after the judgment is entered.

**(B)(i)** The time for filing a notice of appeal fixed by this section runs from the entry on the Superior Court docket of an order fully disposing of any of the foregoing motions, except that if any such order is conditioned on acceptance of a remittitur by any party, the time runs from the date on which a judgment based on acceptance of the remittitur is entered. Any statement accepting or rejecting a remittitur must be filed in the Superior Court and served on all other parties.

**(ii)** If a party files a notice of appeal after the court announces or enters a judgment — but before it disposes of any motion listed in Rule 4 (a)(4)(A) — the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

**(iii)** A party intending to challenge an order disposing of any motion listed in Rule 4 (a)(4)(A), or a judgment altered or amended upon such a motion, must file a notice of appeal — in compliance with Rule 3 (c) — within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion.

**(5) Extension of Time.**

**(A)** The Superior Court may extend the time for filing the notice of appeal if:

**(i)** a party files the notice of appeal no later than 30 days after the time prescribed by Rule 4 (a) expires; and

**(ii)** that party shows excusable neglect or good cause.

**(B)** A request for extension of time made before the expiration of the time prescribed in Rule 4 (a)(1) or (3) may be ex parte unless the court requires otherwise. If the request is made after the expiration of the prescribed time, it must be by motion and provide such notice to the other parties as the court deems appropriate.

**(6) Entry Defined.** A judgment or order is entered for purposes of this rule when it is entered in compliance with the rules of the Superior Court. When a judgment or final order is signed or decided outside the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the docket reflecting service of notice by that Clerk.

**(7) Reopening Time to Appeal.** The Superior Court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

**(A)** the court finds that the moving party did not receive notice under Superior Court Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;

**(B)** the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Superior Court Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and

**(C)** the court finds that no party would be prejudiced.

**(b) Appeal in a Criminal Case.**

**(1) Time for Filing a Notice of Appeal.** A notice of appeal in a criminal case must be filed with the Clerk of the Superior Court within 30 days after entry of the judgment or order from which the appeal is taken, unless a different time is specified by the provisions of the District of Columbia Code.

**(2) Filing Before Entry of Judgment.** A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry. If a notice of appeal filed after verdict is not followed by the entry of a judgment, the appeal is subject to dismissal at any time for lack of jurisdiction.

**(3) Effect of a Motion on a Notice of Appeal.**

**(A)** If a defendant timely makes any of the following motions under the Superior Court Rules of Criminal Procedure, the notice of appeal from a judgment of conviction must be filed within 30 days after the entry of the order disposing of the last such remaining motion, or within 30 days after the entry of the judgment of conviction, whichever period ends later. This provision applies to a timely motion:

**(i)** for judgment of acquittal under Rule 29;

**(ii)** for a new trial under Rule 33, but if based on newly discovered evidence, only if the motion is made no later than 30 days after the entry of the judgment; or

**(iii)** for arrest of judgment under Rule 34.

**(B)** A notice of appeal filed after the announcement of a verdict, decision, sentence, or order — but before the court disposes of any of the motions referred to in Rule 4 (b)(3)(A) — becomes effective upon the later of the following:

**(i)** the entry of the order disposing of the last such remaining motion; or

**(ii)** the entry of the judgment of conviction.

**(C)** A valid notice of appeal is effective — without amendment — to appeal from an order disposing of any of the motions referred to in Rule 4 (b)(3)(A).

**(4) Motion for Extension of Time.** Upon a finding of excusable neglect or good cause, the Superior Court may — before or after the time has expired, with or without motion and notice — extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by Rule 4 (b).

**(5) Entry Defined.** A judgment or order is deemed to be entered within the meaning of this subdivision when it is entered on the criminal docket by the Clerk of the Superior Court. When a judgment or final order is signed or decided out of the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of

calculating the time for filing a notice of appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the criminal docket reflecting the mailing of notice. *Singer v. Singer*, 583 A.2d 689 (D.C. 1990).

**(c) Expedited and Emergency Appeals.**

**(1) Expedited Appeals.**

**(A)** These appeals include, but are not limited to: government appeals from pre-trial orders, D.C. Code § 23-104 (a)(1) (2001), and appeals from orders of the Family Court either terminating parental rights or granting or denying petitions for adoption, D.C. Code § 11-721 (g) (2001). Additionally, any party may file a motion with this court requesting that an appeal be expedited.

**(B)** The appellant or counsel for appellant must:

**(i)** Timely file a notice of appeal in the Superior Court and file a stamped copy of the notice with the Clerk of this court.

**(ii)** Within 10 days, order or file an appropriate motion for preparation of the necessary transcript on an expedited basis, and make arrangements for payment as required by Rule 10 (b)(4).

**(C)** Upon completion of the record, the Clerk will issue a briefing order, and the case will be given priority in calendaring.

**(2) Emergency Appeals.**

**(A)** These appeals include, but are not limited to: pre-trial bail or detention appeals, D.C. Code § 23-1324 (2001), juvenile interlocutory appeals, D.C. Code § 16-2328 (2001), government appeals from intra-trial orders, D.C. Code § 23-104 (b) & (d) (2001), and extradition appeals, D.C. Code § 23-704 (2001).

**(B)** The appellant or counsel for appellant must:

**(i)** Review the applicable statute or rule to assure compliance with the controlling time requirements.

**(ii)** Timely file a notice of appeal in the Superior Court and notify the Clerk of this court in person or by telephone of: the filing of the notice of appeal, the nature of the emergency appeal, the names and telephone numbers of all parties or their attorneys, and any transcript needed for the appeal.

**(iii)** Immediately order the necessary transcript or have necessary

vouchers prepared and submitted to the trial judge. Any order or voucher for transcript must request overnight preparation. If transcript is ordered, the appellant must pay for it promptly upon completion.

**(iv)** Submit a written motion setting forth the relief sought and the grounds therefor, and personally serve a copy on the other parties. The motion must be accompanied by a copy of the order being appealed from and any other documents filed in the Superior Court which counsel believes essential for the court's consideration.

**(C)** Opposing counsel must submit and personally serve a written response or cross-motion in compliance with Rule 4 (c)(2)(B)(iv).

**(D)** The Clerk will advise the assigned division of this court of the pendency of the emergency appeal so that the case may be promptly decided or scheduled for argument where appropriate.

**(E)** In the case of a juvenile interlocutory appeal, the motion must be filed no later than 4:00 pm on the next calendar day after the filing of the notice of appeal. Any opposition must be filed with the Clerk by noon on the following calendar day, unless these times are shortened by court order.

**(d) Appeal by an Inmate Confined in an Institution.**

**(1)** If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 4 (d)(1). If an inmate files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

**(A)** it is accompanied by:

**(i)** a declaration in compliance with 28 U.S.C. § 1746–or a notarized statement–setting out the date of deposit and stating that first-class postage is being prepaid; or

**(ii)** evidence (such as a postmark or date stamp) showing that the notice was deposited and that postage was prepaid; or

**(B)** the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 4 (d)(1)(A)(I).

**(2)** If an inmate files the first notice of appeal under this Rule 4 (d), the 14-day period provided in Rule 4 (a)(3) for another party to file a notice of appeal runs from the date when the Superior Court dockets the first notice.

**(e) Mistaken Filing in the Court of Appeals.** If a notice of appeal is submitted to this

court, the Clerk must note on the notice the date when it was received and send it to the Clerk of the Superior Court. The notice is then considered filed in the Superior Court on the date so noted.

**(f) Remand to the Superior Court.** When a case is pending in this court, and the Superior Court has indicated its intention to grant a motion that will alter or amend the order, decision, judgment, or sentence that is the subject of the appeal, the movant must notify the Court of Appeals, and any party may request a remand of the case for that purpose by filing in this court a motion to remand the case stating the trial judge's intention. See Rule 41 (e).

**Rule 5. Appeals by Permission Pursuant to D.C. Code § 11-721 (d) (2001).**

**(a) Application for Permission to Appeal.**

**(1)** To request permission to appeal from a ruling or order in a civil case not otherwise appealable, a party must file an original and three copies of an application for permission to appeal. The application may not exceed 20 pages, excluding any attachments or statements required by this rule, and must be filed with the Clerk of this court with proof of service on all other parties to the action. The application must also conform to the requirements of Rule 27 (d)(1) and (5).

**(2)** The application must be filed within 10 days after the entry of the order of the Superior Court, as required by D.C. Code § 11-721 (d) (2001).

**(3)** The Clerk will not accept the application for filing unless the ruling or order sought to be appealed contains the statement of the trial judge referred to in D.C. Code § 11-721 (d) (2001). The trial judge may amend the order at any time to include the prescribed statement, and permission to appeal may be sought within 10 days after entry of the amended order.

**(b) Contents of the Application; Response; Oral Argument.**

**(1)** The application must include the following:

**(A)** the facts necessary to an understanding of the controlling question of law determined by the order of the Superior Court;

**(B)** the question itself;

**(C)** the reasons why a substantial basis exists for a difference of opinion on the question and why an immediate appeal may materially advance the termination of the litigation; and

**(D)** an attached copy of the order from which the appeal is sought and any findings of fact, conclusions of law, and opinion relating thereto.

**(2)** A party may file a response within 7 days after service of the application. An original and 3 copies of the response must be filed.

**(3)** The application and response will be submitted without oral argument unless the court orders otherwise.

**(c) Stay of Proceedings in the Superior Court**. An application, filed in this court, for an appeal under this rule will not stay the proceedings in the Superior Court unless the judge of that court who made the ruling or order, or this court or a judge thereof, so orders.

**(d) Grant of Permission.** If permission to appeal is granted, the order granting permission will be treated as the notice of appeal, and the time fixed by Rules 10 through 12 will run from the filing date of the order. A separate notice of appeal will not be required; the provisions of Rule 14 will not apply.

**Rule 6. Appeals by Application Pursuant to D.C. Code § 11-721 (c) (2001) and § 17-301 (2001).**

**(a) Application for Allowance of Appeal.**

**(1)** An original and four copies of an application for the allowance of an appeal must be filed with the Clerk of this court with proof of service on all other parties to the action. See Form 3 and Form 4.

**(2)** The application must be filed within 3 days after entry of the judgment or order of a Superior Court judge, as defined in Rule 4 (a)(6). See D.C. Code § 17-307 (2001); Super. Ct. Civ. R. 73 (b). A judgment or order is deemed to be entered within the meaning of this subdivision when it is entered on the docket by the Clerk of the Superior Court. When a judgment or final order is signed or decided out of the presence of the parties and counsel, such judgment or order will not be considered as having been entered, for the purpose of calculating the time for filing an application for the allowance of an appeal, until the fifth day after the Clerk of the Superior Court has made an entry on the docket reflecting the mailing of notice. *See* Rule 26 (a) (Computing Time). The application is deemed filed, for the purpose of determining whether it is timely, when the application is received by the Clerk of this court, not when it is mailed.

**(3)** The application must be signed by the individual applicant or counsel. If the applicant is a corporation or other entity, the application must be signed by counsel. An application not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party.

**(b) Contents of the Application and Response**.

**(1)** The application must include the following:

**(A)** a statement of the proceedings and evidence sufficient to present the ruling or rulings sought to be reviewed;

**(B)** a statement of why the trial court erred or why the appeal presents a question of law which has not been but should be decided by this court.

**(2)** The application may include a statement of the points and authorities relied upon.

**(3)** A party may file a response within 3 days of service of the application.

**(c) Statement of Proceedings and Evidence.** If this court determines that the application and any response are insufficient for it to act upon the application, it may

**(1)** require the original record and exhibits to be transmitted to this court; and, if necessary,

**(2)** call for a statement of proceedings and evidence from the trial judge.

**(d) Granting the Application.**

**(1)** One judge of a three judge division may grant the application.

**(2)** If the application is granted, it will be treated as the notice of appeal, and the Clerk must transmit to the Clerk of the Superior Court a notice of the granting of the appeal together with a copy of the application and response thereto. The time fixed by Rules 10 through 12 will run from the date of the order granting the application.

**(e) Effect of Denial of Application**. Denial of the application is an affirmance of the judgment of the Superior Court.

**(f) Petition for Reconsideration.**

**(1)** A petition for reconsideration of the denial of an application may be filed within 7 days of the denial.

**(2)** The petition will be considered by the three judges to whom the application was submitted, and no petition for en banc consideration may be filed.

**Rule 7. Bond for Costs on Appeal in a Civil Case.** For good cause, the court may require an appellant to file a bond or provide other security in a form and amount necessary to ensure payment of costs on appeal; otherwise, no security for costs is required. Rule 8 (b) applies to a surety on a bond given under this rule.

**Rule 8. Stay or Injunction Pending Appeal.**

**(a) Motion for Stay.**

**(1) Initial Motion in the Superior Court.** A party must ordinarily move first in the Superior Court for the following relief:

**(A)** a stay of the judgment or order;

**(B)** approval of a supersedeas bond; or

**(C)** an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.

**(2) Motion in the Court of Appeals.** A motion for the relief mentioned in Rule 8 (a)(1) may be made to this court.

**(A)** The motion must:

**(i)** show that moving first in the Superior Court would be impracticable; or

**(ii)** state that, a motion having been made, the Superior Court denied the motion or failed to afford the relief requested, and state any reasons given by the Superior Court for its action.

**(B)** The motion must also include:

**(i)** the reasons for granting the relief requested and the facts relied on;

**(ii)** originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

**(iii)** relevant parts of the record, including the judgment or order being appealed.

**(C)** The moving party must give reasonable notice of the motion to all parties. If a ruling is requested before the normal time for responses will expire, the parties must comply with Rule 4 (c)(2)(B).

**(D)** A motion under Rule 8 (a)(2) must be filed with the Clerk and normally

will be considered by a division of the court. In an exceptional case in which time requirements make that procedure impracticable, the motion may be submitted by the Clerk to a single judge of the court for consideration and interim ruling.

**(b) Bond or Other Security.**

**(1)** To preserve the status or rights of parties until the appeal is concluded, the court may impose any condition it determines necessary to prevent irreparable injury. The court may condition relief on a party's filing a bond or other appropriate security in the Superior Court. Upon motion for cause shown, the court may also alter the amount of the bond fixed by the trial court, or may fix a bond in the event the trial court has refused to do so.

**(2)** If a party gives security in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Superior Court and irrevocably appoints the Clerk of that court as the surety's agent on whom any papers affecting the surety's liability on the bond or undertaking may be served. On motion, a surety's liability may be enforced in the Superior Court without the necessity of an independent action. The motion and any notice the Superior Court prescribes may be served on the Clerk of the Superior Court, who must promptly mail a copy to each surety whose address is known.

**(c) Stay in a Criminal Case.** Rule 38 of the Superior Court Rules of Criminal Procedure governs a stay in a criminal case.

**Rule 9. Release or Detention in a Criminal Case.** The Superior Court must state in writing, or orally on the record, the reasons for any order detaining a defendant in a criminal case. If the Superior Court orders the release of a defendant and the prosecution indicates an intent to appeal that decision, the judge must state reasons for the action taken. A request for relief by this court from an order of detention must be accompanied by an affidavit executed by the party or attorney requesting the relief, addressing each point enumerated in Form 6. Additionally:

**(a) Release or Detention Before Judgment of Conviction.** A party appealing from an order regarding detention or release before a judgment of conviction must follow the procedures stated in Rule 4 (c)(2) (Emergency Appeals). Following reasonable notice to the appellee, the court will determine the appeal promptly on the basis of the papers and parts of the record that the parties present or the court requires.

**(b) Release or Detention After Judgment of Conviction.** A party requesting review of an order regarding release or detention after a judgment of conviction must file a notice of appeal from that order in the Superior Court, or a motion in this court if the party has already filed a notice of appeal from the judgment of conviction. The party must then follow the relevant procedures stated in Rule 4 (c)(1) (Expedited Appeals). The papers filed must include a copy of the judgment of conviction.

**Rule 10. The Record on Appeal.**

**(a) Composition of the Record on Appeal**. The following items constitute the record on appeal:

**(1)** the original papers and exhibits filed in the Superior Court;

**(2)** the transcript of proceedings, if any; and

**(3)** a certified copy of the docket entries prepared by the Clerk of the Superior Court.

**(b) The Transcript of Proceedings**.

**(1) Appellant's Duty to Order.** Within 10 days after filing the notice of appeal, the appellant, unless proceeding on appeal as specified in Rule 10 (b)(5), must:

**(A)** order from the reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary, and identify for the Court Reporter Division any transcript already prepared that is to be included in the record on appeal; or

**(B)** file a certificate in this court stating that no transcript will be ordered.

**(2) Unsupported Finding or Conclusion.** If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to that finding or conclusion. See *Cobb v. Standard Drug Co.*, 453 A.2d 110 (D.C. 1982).

**(3) Partial Transcript.** Unless the entire transcript is ordered:

**(A)** the appellant must, within the 10 days provided in Rule 10 (b)(1) — file a statement of the issues that the appellant intends to present on the appeal and must serve on all other parties a copy of both the transcript order or certificate required by Rule 10 (b)(1) and the statement;

**(B)** if any other party considers it necessary to have a transcript of other parts of the proceedings, it must, within 10 days after service of the transcript order or certificate and statement of the issues, file and serve on the appellant a designation of additional parts to be ordered; and

**(C)** unless within 10 days after service of that designation the appellant has ordered all such parts, and has so notified the other parties, the designating party may within the following 10 days either order the parts or move in the Superior Court for an order requiring the appellant to do so.

**(4) Payment.** At the time of ordering, a party must make satisfactory arrangements with the Court Reporter Division for paying the cost of the transcript, except when the party is proceeding under Rule 10 (b)(5).

**(5) Transcript in In Forma Pauperis, Criminal Justice Act, and Neglect Appeals.**

**(A)** In all civil cases in which the appellant is proceeding on appeal in forma pauperis, except those governed by Rule 10 (b)(5)(C), a request for the preparation of transcripts must be made, on motion with notice, to the appropriate motions or trial judge. See *Hancock v. Mutual of Omaha Ins. Co.*, 472 A.2d 867 (D.C. 1984).

**(B)** In all cases in which the appellant has been permitted to proceed in the Superior Court under the Criminal Justice Act, see D.C. Code § 11-2601 et seq. (2001), the notice of appeal will be considered by the Superior Court as encompassing an order for the preparation of the reporter's transcript at the expense of the government. A copy of the notice and of the docket entries will be transmitted by the Clerk of the Superior Court to the Court Reporter Division for preparation of the transcript. The transcript prepared will include pretrial hearings on motions, voir dire, openings, the testimony and evidence presented by the parties, closings, the charge to the jury, the verdict, and sentencing, as well as any other proceeding in the case designed by counsel pursuant to Rule 10 (b)(1)(A).

**(C)** In cases where counsel for the appellant has been appointed under the Prevention of Child Abuse and Neglect Act, see D.C. Code § 16-2304 (2001), counsel must secure vouchers for the preparation of transcripts from the Finance Office and submit them to the trial judge for approval.

**(c) Statement of the Evidence When The Proceedings Were Not Recorded or When a Transcript is Unavailable.** If the transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be served upon all other parties, who may serve objections or proposed amendments within ten days after being served. The statement and any objections or proposed amendments must then be submitted to the trial judge for settlement and approval. As settled and approved, the statement must be included by the Clerk of the Superior Court in the record on appeal.

**(d) Agreed Statement as the Record on Appeal.** In place of the record on appeal as defined in Rule 10 (a), the parties may prepare, sign, and submit to the trial judge a statement of the case showing how the issues presented by the appeal arose and were decided in the Superior Court. The statement must set forth only those facts averred and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it — together with any additions that the trial judge may consider necessary to a full presentation of the issues on appeal — must be approved by the trial judge and must then be certified to this court as the record on appeal. A copy of the agreed statement may be filed in place of the appendix required by Rule 30.

**(e) Correction or Modification of the Record**.

**(1)** If any difference arises about whether the record truly discloses what occurred in the Superior Court, the difference must be submitted to and settled by that court and the record conformed accordingly.

**(2)** If anything material to any party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded:

**(A)** on a stipulation of the parties; or

**(B)** by the Superior Court before or after the record has been forwarded.

**(3)** All other questions as to the form and content of the record must be presented to this court.

**Rule 11. Transmission of the Record.**

**(a) Appellant's Duty.** An appellant filing a notice of appeal must comply with Rule 10 (b) and must do whatever else is necessary to enable the Clerk of the Superior Court to assemble and forward the record. If there are multiple appeals from a judgment or order, the Clerk must assemble a single record.

**(b) Duties of Reporter, Director of the Court Reporter Division, and Clerk of the Superior Court.**

**(1) Reporter's Duty to Prepare and File a Transcript.** The reporter must prepare and file a transcript as follows:

**(A)** Upon receiving an order for a transcript, the reporter must enter at the bottom of the order the date of its receipt and the expected completion date and send a copy, so endorsed, to the Clerk of the Superior Court.

**(B)** If the transcript cannot be completed within 60 days of the reporter's receipt of the order, the reporter may request that this court grant additional time to complete it. The Clerk must note on the docket the action taken and notify the parties.

**(C)** When a transcript is complete, the reporter must file it with the Director of the Court Reporter Division.

**(2) Duties of the Director of the Court Reporter Division.** If all transcript ordered or designated for appeal has not been completed within the 60 day time period, the

Director of the Court Reporter Division must retain the partial transcript until the transcription of all proceedings has been completed. When completed, the transcript must be placed in chronological sequence, with the pages properly renumbered, and filed with the Clerk of the Superior Court.

**(3) Duties of the Clerk of the Superior Court.**

**(A)** When the record is complete, the Clerk of the Superior Court must prepare an index that reasonably identifies and numbers the documents constituting the record, and promptly send 4 certified copies of that index and the original reporter's transcript, if any, to the Clerk of this court. The Clerk of the Superior Court must retain all other parts of the record for the parties to use in preparing the papers on appeal, subject to call by this court. In cases where a party has been permitted to proceed on appeal in forma pauperis, see Rule 24, the Clerk of the Superior Court must prepare and submit 2 copies of the record to the Clerk of this court.

**(B)** In appeals where reporter's transcript is filed after the transmittal of the certified index, the Clerk of the Superior Court must forward the transcript as a supplemental record on appeal promptly after the Director of the Court Reporter Division files it.

**(c) Record for a Preliminary Motion in the Court of Appeals.** If, before the record is forwarded, a party files in this court a motion for dismissal, summary reversal, summary affirmance, release pending appeal, stay or injunction pending appeal, additional security on a supersedeas bond, or for any other relief, the Clerk of the Superior Court, upon order of this court, must transmit a preliminary record containing the notices of appeal, the order appealed from, and those parts of the record designated by any party.

**Rule 12. Docketing the Appeal; Filing the Record; Sealing the Record.**

**(a) Docketing the Appeal.** Upon receiving the copy of the notice of appeal from the Clerk of the Superior Court under Rule 3 (d), the Clerk of this court must docket the appeal, identifying the appellant and adding the appellant's name if necessary.

**(b) Filing the Record.** Upon receiving the certified index and transcript, if any, as provided in Rule 11(b)(3)(A), the Clerk must immediately notify all parties that the record is complete.

**(c) Sealing the Record.** An appeal in which the record has been ordered sealed by this court or an appeal relating to (1) juvenile, (2) adoption, (3) parentage, or (4) neglect proceedings will be reflected on the public docket by the initials of the parties and the case number of the Superior Court. In these cases the Clerk must seal the records and all documents subsequently received from the Superior Court or counsel for the parties. In any other appeal noted from a case in which the record has been sealed by the Superior Court, the record alone will be filed under seal; any filings in this court in such appeals will be placed under seal only upon order of this court. The Clerk must not permit review or inspection of any sealed material by any person other than counsel

of record for the parties except on order of this court.

**Rule 13. Dismissal of Appeal.**

**(a) Involuntary Dismissal.** The court, sua sponte or upon motion of the appellee, with or without notice, may dismiss an appeal for failure to comply with a rule of this court or where otherwise warranted.

**(b) Voluntary Dismissal.**

**(1) In the Superior Court.** Before an appeal has been docketed by the Clerk of this court, the Superior Court may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant's motion with notice to all parties. A copy of the stipulation, or motion and response, if any, must be served on the Clerk of this court.

**(2) In the Court of Appeals.** An appeal may be dismissed if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. An appeal may also be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court. In neither case, however, will a mandate or other process issue without an order of the court.

**Rule 14. Appeal Conferences.**

**(a) Purpose of Conference.** The court, sua sponte or upon motion of a party, may direct the attorneys to participate in one or more conferences to address any matter that may aid in resolving the appeal. This may include simplifying the issues, discussing the status of record preparation, possible consolidation of briefing in multi-party proceedings, and, in a non-criminal appeal, discussing settlement. A judge or other person will be designated by the court to preside over the conference.

**(b) Attendance at Conference**. Parties themselves are not required to attend an appeal conference except when a party is not represented by counsel, or when the conference officer has directed a party to attend. Before a conference called to discuss the possibility of settlement, the attorneys must consult with their clients and obtain as much authority as feasible to settle the case.

**(c) Conference Order.** As a result of the appeal conference, the court may enter an order controlling the course of the proceedings or implementing any settlement agreement. If the order fully disposes of the case, it will be entered by a single judge and the Clerk will issue a mandate to the Superior Court or agency directing it to enter an appropriate judgment or other order. The conference officer may also recommend to the court that a case be scheduled for expedited briefing or calendaring, as appropriate.

**(d) Disqualification of Settlement Conference Judge**. The conference officer, if a judge, will not participate in the disposition of the case.

**(e) Confidentiality**. Any statement, representation, or offer of settlement made in an appeal conference and not embodied in a conference order will be privileged and confidential.

## TITLE III. REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES

### Rule 15. Review of Agency Orders.

**(a) Petition for Review; Joint Petition.**

**(1)** Review of an agency order or decision is commenced by filing with the Clerk of this court an original and six copies of a petition for review. If their interests make joinder practicable, two or more persons may join in a petition for review.

**(2)** Unless an applicable statute provides a different time frame, the petition for review must be filed within 30 days after notice is given, in conformance with the rules or regulations of the agency, of the order or decision sought to be reviewed. In the event the time prescribed by statute is less than 11 days, intermediate Saturdays, Sundays, and legal holidays, as defined in Rule 26 (a), are excluded in the computation unless the statute expressly provides otherwise. If the order or decision is made out of the presence of the parties and notice thereof is by mail, the petitioner will have 5 additional days from the date of mailing.

**(3)** The petition must:

**(A)** name each party seeking review either in the caption or the body of the petition — using such terms as "et al.," "petitioners," or "respondents" does not effectively name the parties;

**(B)** name the agency as a respondent; and

**(C)** specify the order or decision or part thereof to be reviewed.

**(4)** Filing may be accomplished by mail addressed to the Clerk, but filing will not be deemed timely unless the petition is, in fact, received by the Clerk within the prescribed time.

**(5)** If the petitioner is a corporation or other entity, the petition must be signed by counsel. A petition not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party.

**(6)** If a timely petition for review is filed by a party, any other party to the proceeding before the agency may file a cross-petition for review within 14 days after the petition was filed, or within 30 days of the date of the challenged order or decision, whichever period expires later.

**(7)** Form 5 is a suggested form of a petition for review.

**(b) Termination of the Time for Filing a Petition for Review.** If a party timely files a petition for rehearing or reconsideration in accordance with the rules of the agency, the time to petition for review as fixed by section (a)(2) of this rule runs from the date when notice of the order denying the petition is given.

**(c) Service of the Petition.** The Clerk must serve a copy of the petition for review on the respondent agency and the Corporation Counsel of the District of Columbia or other counsel representing the agency. At the time of filing, the petitioner must:

**(1)** serve, or have served, a copy on each party admitted to participate in the agency proceedings, except for the respondents; and

**(2)** file with the Clerk a list of those so served.

**(d) Intervention.** A party to the agency proceeding who wants to intervene in this court must, within 30 days from the date the petition is filed, serve upon all parties to the proceeding, and file with the Clerk, a copy of a notice of intention to intervene, in which case the party will be deemed an intervenor without the necessity of filing a motion. Any other person who wants to intervene must file a motion to intervene with the Clerk within 30 days of the date on which the petition for review is filed, unless the time is extended by order of the court for good cause. A copy of the motion must be served on all parties. The motion must contain a concise statement of the interest of the moving party and the grounds for intervention, and must state on which side the party seeks to intervene.

**(e) Fees.** When filing any separate or joint petition for review, the petitioner must pay the Clerk all required fees.

**(f)** To the extent applicable, Rule 4 (c)(1) (Expedited Appeals) governs appeals from an order or decision of the Public Service Commission. See D.C. Code § 34-605 (2001).

**Rule 16. Record on Review.**

**(a) Composition of the Record.** The record on review consists of:

**(1)** the order involved;

**(2)** any findings or report on which it is based;

**(3)** the original papers and exhibits filed with the agency, or a legible certified copy thereof; and

**(4)** a certified copy of the transcript of any testimony before the agency, or, if no transcript is available, a certified narrative statement of relevant proceedings and evidence.

**(b) Omissions From or Misstatements in the Record.** The parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or the court may so direct. If necessary, the court may direct that a supplemental record be prepared and filed.

**Rule 17. Filing of the Record.**

**(a) Agency to File; Time for Filing; Notice of Filing.** The agency must file the record within 60 days after being served with a petition for review. The court may shorten or extend this time for good cause. The Clerk must notify all parties that the record has been filed.

**(b) Filing – What Constitutes.**

**(1)** The agency must file:

**(A)** the original or a certified copy of the record on review or parts designated by the parties; or,

**(B)** if a partial record is filed, a certified list adequately describing all documents, transcripts, exhibits, and other material constituting the record on review.

**(2)** The parties may stipulate in writing that no record or certified list be filed. The date when the stipulation is filed with the Clerk is treated as the date when the record is filed.

**(3)** The agency must retain any portion of the record not filed with the Clerk. All parts of the record retained by the agency are a part of the record on review for all purposes and, if the court or a party so requests, must be sent to the court regardless of any prior stipulation.

**Rule 18. Stay Pending Review.**

**(a) Motion for a Stay.**

**(1) Initial Motion Before the Agency**. A petitioner must ordinarily move first before the agency for a stay pending review of its decision or order.

**(2) Motion in the Court of Appeals.** A motion for a stay may be made to this court.

**(A)** The motion must:

**(i)** show that moving first before the agency would be impracticable; or

**(ii)** state that the agency has denied a motion for stay and state any reasons given by the agency for its action.

**(B)** The motion must also include:

**(i)** the reasons for granting the relief requested and the facts relied on;

**(ii)** originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and

**(iii)** relevant parts of the record, including a copy of the order or decision sought to be stayed.

**(C)** The moving party must give reasonable notice of the motion to all parties. Personal service on all parties is required if a ruling is requested before expiration of the time for a response, see Rule 27 (a)(4), or the moving party must demonstrate that personal service is not feasible.

**(D)** The motion will normally be considered by a division of the court. In an exceptional case where this procedure is impracticable because of time requirements, the motion may be submitted by the Clerk to a single judge of the court for consideration and interim ruling.

**(b) Bond**. The court may condition relief on the filing of a bond or other appropriate security.

**Rule 19. Conditions Pending Review.**

The court may take appropriate action to preserve the status or rights of parties pending decision on the petition, including the imposition of such conditions as it may, in its discretion, determine are necessary to prevent irreparable injury.

**Rule 20. Applicability of Other Rules.**

With the exception of Rules 3 through 12, all pertinent provisions of these rules apply to the review of agency orders and decisions.

## TITLE IV. EXTRAORDINARY WRITS; CERTIFICATION OF QUESTIONS OF LAW

### Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs.

**(a) Mandamus or Prohibition to a Superior Court Judge or a District of Columbia Officer: Petition, Filing, Service and Docketing.**

**(1)** A party petitioning for a writ of mandamus or prohibition directed to a Superior Court judge or a District of Columbia officer must file a petition with the Clerk of this court with proof of service on all parties to the proceeding in the Superior Court or before the affected agency. The party must also provide a copy to the judge or District of Columbia officer. The District of Columbia officer and all parties to the proceeding in the Superior Court other than the petitioner are respondents for all purposes.

**(2)(A)** The petition must be titled "In re [name of petitioner]."

**(B)** The petition must state:

**(i)** the relief sought;

**(ii)** the issues presented;

**(iii)** the facts necessary to understand the issue(s) presented by the petition; and

**(iv)** the reasons why the writ should issue.

**(C)** The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.

**(3)** Upon receiving the prescribed fee, the Clerk must docket the petition and submit it to the court.

**(b) Denial; Order Directing Answer; Briefs; Precedence.**

**(1)** The court may deny the petition without an answer. Otherwise, it must order the respondent(s) to answer within a fixed time.

**(2)** The Clerk must serve the order to answer on all respondents.

**(3)** Two or more respondents may answer jointly.

**(4)** The District of Columbia officer may inform the court and all parties in writing that he or she does not desire to appear in the proceeding, but the petition will not thereby be deemed admitted. This court may invite or order the Superior Court judge to address the petition or may invite an amicus curiae to do so. The Superior Court judge may request permission to address the petition but may not do so unless invited or ordered to do so by this court.

**(5)** If briefing or oral argument is required, the Clerk must advise the parties of the dates by which briefs are to be filed, and of the date of oral argument.

**(6)** The proceeding must be given preference over ordinary civil cases.

**(7)** The Clerk must send a copy of the final disposition to the Superior Court judge or District of Columbia officer.

**(c) Other Extraordinary Writs.** An application for an extraordinary writ other than one provided for in Rule 21 (a) must be made by filing a petition with the Clerk of this court with proof of service on the respondent. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in Rule 21 (a) and (b).

**(d) Form of Papers; Number of Copies.** All papers must conform to Rule 32. Except by the court's permission, a paper must not exceed 30 pages. An original and 3 copies must be filed unless the court requires the filing of a different number by order in a particular case.

**Rule 22. Certification of Questions of Law.**

**(a) Counsel's Duties.**

**(1)** Upon certification of a question of law to this court under D.C. Code § 11-723 (2001), counsel who is not a member of the Bar of this court must comply with the provisions of Rule 49 (c)(7) within 20 days of the date of certification.

**(2)** Within 30 days of the date of the certification order, counsel must file statements (joint or separate) indicating whether the certification and accompanying papers are adequate to enable the court to decide the certified question. The court may direct the parties to supplement the certified record as necessary.

**(b) General Provisions.**

**(1)** The certified question will be deemed answered 21 days after the court's opinion is filed with the Clerk unless the time is shortened or extended by order.

**(2)** Unless otherwise ordered, the Clerk will send a certified copy of the opinion to the certifying court. The timely filing of a petition for rehearing or rehearing en banc will stay transmittal of the opinion unless otherwise ordered by the court.

**Rule 23. Reserved.**

## TITLE V. PROCEEDINGS IN FORMA PAUPERIS

**Rule 24. Proceeding Without Prepayment of Fees and Costs (In Forma Pauperis).**

**(a) Appeals from the Superior Court.**

**(1) Prior Approval.** A party who was permitted to proceed in forma pauperis in the Superior Court, or who was determined by the Superior Court to be eligible for court-appointed counsel under D.C. Code § 11-2601 et seq. (2001) (Criminal proceedings) or D.C. Code § 16-2304 (2001) (Family Court proceedings), may proceed on appeal in forma pauperis without further authorization.

**(2) Motions to be Filed in the Superior Court.**

**(A)** Except as stated in Rule 24 (a)(1), a party to a proceeding in the Superior Court who desires to take an appeal without the prepayment of fees must file in the Superior Court within the time for filing an appeal:

**(i)** A notice of appeal containing the information prescribed in Form 1 or Form 2; and

**(ii)** A motion and affidavit containing the information prescribed in Form 7a and Form 7b, showing an inability to pay fees and costs or to give security therefor.

**(B)** If the Superior Court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs.

**(C)** If the Superior Court denies the motion, that court must issue an order in writing stating the reason for its denial. Within 10 days after entry of the order denying the motion, the party may file in this court a motion to proceed on appeal in forma pauperis. The motion must include:

**(i)** A copy of the motion, affidavit, and notice of appeal filed in the

Superior Court, and any order of the Superior Court stating the reasons for its denial; and

**(ii)** A statement of the reasons why the party believes the Superior Court's denial was in error. If no affidavit was filed in the Superior Court, the party must include with the motion an affidavit containing the information prescribed in Form 7b.

**(3) Motions to be Filed in the Court of Appeals**. If a party desires to proceed on appeal in forma pauperis after having filed a notice of appeal and paid the required fees, the party must file with this court a motion to proceed in forma pauperis, see Form 7a, and an affidavit containing the information prescribed in Form 7b.

**(b) Review of Agency Decisions.**

**(1) Petition for Review; Motion and Affidavit.** When review of an order or decision in a proceeding before an agency of the District of Columbia proceeds directly to the Court of Appeals, a party may file in this court, along with the petition for review, a motion to proceed on appeal in forma pauperis, see Form 7a, and an affidavit containing the information prescribed in Form 7b.

**(2) Timing.** The motion, affidavit, and petition for review must be filed within the time permitted for seeking review of the agency order or decision to be reviewed.

**(c) Petitions for Extraordinary Writs.** A party who files a petition for an extraordinary writ and who desires to proceed in forma pauperis must file, along with the petition, a motion to so proceed, see Form 7a, and an affidavit containing the information prescribed in Form 7b.

**(d) Denial of In Forma Pauperis Motions.** If a motion to proceed in forma pauperis is denied by this court, the Clerk must notify the parties of the denial, and the petitioner must pay the required filing fee within the time specified in the order of denial.

**(e) Special Rules Governing In Forma Pauperis Appeals.** For rules specially governing in forma pauperis appeals, see Rules 10 (b)(5), 11 (b)(3), and 30 (f).

## TITLE VI. GENERAL PROVISIONS

### Rule 25. Filing and Service.

**(a) Filing.**

**(1) Filing with the Clerk.** A paper required or permitted to be filed in this court must be filed with the Clerk.

**(2) Filing: Method and Timeliness**.

**(A) In general.** Filing may be accomplished by mail addressed to the Clerk, but filing is not timely unless the Clerk receives the papers within the time fixed for filing.

**(B) Inmate filing.** If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25 (a)(2)(B). A paper filed by an inmate is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

**(i)** it is accompanied by: a declaration in compliance with 28 U.S.C. § 1746–or a notarized statement–setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid; or

**(ii)** the court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies Rule 25 (a)(2)(B)(I).

**(C)** A document filed by electronic means in compliance with this court's rules and administrative orders constitutes a paper for the purpose of applying these rules.

**(b) Service of All Papers Required.** Unless a rule requires service by the Clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

**(c) Manner of Service.**

**(1)** Service may be any of the following:

**(A)** personal, including delivery to a responsible person at the office of counsel;

**(B)** by mail;

**(C)** by third-party commercial carrier for delivery within 3 calendar days; or

**(D)** by electronic means, if the party being served consents in writing.

**(2)** Requests for expedited or emergency consideration by this court must be personally served on all counsel and any party not represented by counsel.

**(3)** When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.

**(4)** Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served.

**(5)** When authorized to do so under this court's rules and administrative orders, a party may use the court's transmission equipment to make electronic service under Rule 25 (c)(1)(D).

**(d) Proof of Service.**

**(1)** A paper presented for filing must contain either of the following:

**(A)** an acknowledgment of service by the person served; or

**(B)** proof of service consisting of a statement by the person who made service certifying:

**(i)** the date and manner of service;

**(ii)** the names of the persons served; and

**(iii)** the mail or electronic addresses, facsimile numbers, or addresses of the places of delivery, as appropriate for the manner of service.

**(2)** Proof of service may appear on or be affixed to the papers filed.

**(e) Non-acceptance of Papers by Clerk**. If any paper is not accepted by the Clerk for filing, the Clerk must promptly notify the persons named in the certificate of service.

**Rule 26. Computing and Extending Time.**

**(a) Computing Time.** The following rules apply in computing any period of time specified in these rules or in any order of this court or applicable statute:

**(1)** Exclude the day of the act, event, or default that begins the period.

**(2)** Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless an applicable statute or order of this court expressly provides otherwise, or unless the period is stated in calendar days.

**(3)** Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or — if the act to be done is the filing of a paper in court — a day on which the weather or other conditions cause the Clerk's office to be closed.

**(4)** As used in this rule, "legal holiday" includes New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or by the District of Columbia.

**(b) Extending Time.** For good cause, the court may extend the time prescribed by these rules to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time:

**(1)** to file a notice of appeal (except as authorized in Rule 4) or an application for allowance of appeal; or

**(2)** to file a petition for review; or

**(3)** for doing any act when the time for doing the act has been prescribed by statute.

**(c) Additional Time After Certain Kinds of Service**. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 5 calendar days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule 26 (c), a paper that is served electronically is treated as delivered on the date of service stated in the proof of service. Rule 26 (c) does not apply when an order of this court prescribes the time in which a party is required or permitted to act.

**Rule 26.1. Corporate Disclosure Statement.:**

**(a) Who Must File.** Any non-governmental corporate party to a proceeding in this court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. If a party is a partnership, the party must file a statement listing all partners, including silent partners.

**(b) Time for Filing; Supplemental Filing.** A party must file the Rule 26.1 (a) statement with the principal brief or upon filing a motion, response, petition, or answer in this court, whichever occurs first. Even if the statement has already been filed, the party's principal brief must include the statement before the table of contents. A party must supplement its statement whenever the information that must be disclosed under Rule 26.1 (a) changes.

**Rule 27. Motions.**

**(a) In General.**

**(1) Application for Relief.** An application for an order or other relief is made by motion unless these rules prescribe another form. A motion must be in writing unless the court permits otherwise.

**(2) Who May File.** Any party may file a motion, but when represented by counsel, an individual party may not file a motion or pleading except for a motion to discharge or vacate the appointment of counsel. The Clerk will transmit that motion to counsel of record for that party.

**(3) Contents of a Motion.**

**(A) Grounds and relief sought.** A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

**(B) Accompanying documents.**

**(i)** Any affidavit or other paper necessary to support a motion must be served and filed with the motion.

**(ii)** An affidavit must contain only factual information, not legal argument.

**(iii)** A motion seeking substantive relief must include a copy of the trial court's opinion or agency's decision as a separate exhibit.

**(C) Documents barred or not required.**

**(i)** A separate brief supporting or responding to a motion must not be filed.

**(ii)** A notice of motion is not required.

**(iii)** A proposed order is not required.

**(4) Response.**

**(A) Time to file.** Any party may file a response to a motion; Rule 27 (a)(3) governs its contents. The response must be filed within 7 calendar days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 7-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

**(B) Request for affirmative relief.** A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, are governed by Rule 27 (a)(4)(A) and (a)(5). The title of the response must alert the court to the request for relief.

**(5) Reply to Response.** Any reply to a response must be filed within 3 days after service of the response. A reply must not present matters that do not relate to the response.

**(6) Other Pleadings.** No further pleadings may be filed except with the court's permission and for extraordinary cause.

**(b) Motion for a Procedural Order.**

**(1) Defined.** A motion for a procedural order is one that does not substantially affect the rights of the parties or the ultimate disposition of the appeal. Such motions include, but are not limited to:

**(A)** motions for extensions of time;

**(B)** motions to exceed the page limits of briefs or motions;

**(C)** motions to supplement the record;

**(D)** motions to consolidate;

**(E)** motions for oral argument or to submit without oral argument;

**(F)** motions for remand of the record; and,

**(G)** motions to substitute parties.

**(2) Time for Filing.**

**(A)** A motion to consolidate must be filed promptly after the moving party becomes aware of grounds for consolidation.

**(B)** All other procedural motions may be filed at any time.

**(3) Disposition Before Response Time.** The court may act upon, or the Clerk if authorized may grant, motions for procedural orders at any time without awaiting a response. A party adversely affected by an order of the Clerk so entered may file a motion to reconsider, vacate, or modify that action. The Clerk will submit any such motion to the Chief Judge. A timely opposition filed after a motion is granted in whole or in part does not constitute a request to reconsider, vacate or modify the disposition; a motion requesting that relief must be filed within 10 calendar days after the order is entered on the docket.

**(4) Statement of Consent or Opposition; Service.** A party filing a motion for a procedural order must, before filing the motion, attempt to secure the consent of each party and attempt to determine if an opposition or response will be filed. The movant must state at the beginning of the motion whether the motion is unopposed, whether an opposition will be filed, or whether it was impossible to contact one or more of the parties. In calendared, emergency, and expedited cases, if the movant states that an opposition will be filed or if the movant is unable to

contact any other party, the movant must personally serve the motion on the other parties.

**(c) Motions for Summary Affirmance or Reversal**. The filing of a motion for summary affirmance or reversal will stay the briefing schedule unless otherwise ordered by the court. If a memorandum of law was previously filed in the Superior Court, it may be attached as an appendix to the motion. Responsive pleadings may be filed pursuant to the provisions of section (a) of this rule. A cross-motion for summary disposition may be filed in lieu of a response to a motion for summary disposition. If counsel deems it appropriate, a statement may be included in the motion or responsive pleading indicating that the motion or responsive pleading may be treated as the brief of the party if the court denies the motion or defers consideration on the merits.

**(d) Form of Papers; Page Limits; Number of Copies; Citations; Disclosure Statement and Calendared Cases.**

**(1) Format.**

**(A) Reproduction.** A motion, response, or reply may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

**(B) Cover.** A cover is not required but there must be a caption that includes the case number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed.

**(C) Binding.** The document must be bound in any manner that is secure, does not obscure the text, and permits the documents to lie reasonably flat when open.

**(D) Paper size, line spacing, margins, and font size.** The document must be on 8-1/2 by 11 inch paper. The text must be double spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font size, including footnotes, must be 12-point or larger, preferably in Times New Roman or Courier New typeface. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

**(2) Page Limits**. A motion or a response to a motion must not exceed 20 pages, exclusive of accompanying documents authorized by Rule 27 (a)(3)(B), unless the court permits or directs otherwise. A reply to a response must not exceed 10 pages.

**(3) Number of Copies.** An original and 3 copies must be filed unless en banc consideration is requested; then an original and 9 copies must be filed.

**(4) Citations in Motions**. The provisions of Rule 28 (g), governing citations in briefs, apply to citations in motions and all other papers filed with the court.

**(5) Disclosure Statement**. A motion must include a disclosure statement if one is required by Rule 26.1.

**(6) Calendared Cases.** Once a case has been placed on the calendar for disposition by a merits division, any motion, response, or reply must note on the front page, directly under the appeal number and in bold print, that the matter has been calendared, argued, or submitted and the date of the argument or submission.

**(e) Oral Argument.** A motion will be decided without oral argument unless the court orders otherwise.

**(f) Clerk May Refuse to File.** If a motion does not conform to the rules or is not legible, the Clerk may refuse to file it.

**Rule 28. Briefs.**

**(a) Brief of the Appellant (or Petitioner).** The brief must contain, under appropriate headings and in the order indicated:

**(1)** A title page or cover containing:

**(A)** the number of the case centered at the top;

**(B)** the name of the court;

**(C)** the title of the case as it appears on the appellate docket (see Rule 12 (a));

**(D)** the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below;

**(E)** the title of the brief, identifying the party or parties for whom the brief is filed; and

**(F)** the name, office address, and telephone number of counsel filing the brief. (If more than one name is listed, counsel who will argue the matter must be denoted with an asterisk.);

**(2)** in the case of a non-governmental party, and to enable the judges of this court to consider possible recusal:

**(A)** a list of all parties, intervenors, amici curiae, and their counsel in the

trial court or agency proceeding and in the appellate proceeding; and,

**(B)** a disclosure statement if one is required by Rule 26.1, or

**(C)** if the party is a partnership, a list of all partners, including silent partners;

**(3)** a table of contents, with page references;

**(4)** a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited, and with an asterisk designating those cases chiefly relied upon;

**(5)** an assertion that the appeal is from a final order or judgment that disposes of all parties' claims, or information establishing this court's jurisdiction on some other basis;

**(6)** a statement of the issues presented for review;

**(7)** a statement of the case briefly indicating the nature of the case, the course of the proceedings, and the disposition below;

**(8)** a statement of facts relevant to the issues submitted for review with appropriate references to the record (see Rule 28 (e));

**(9)** a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

**(10)** an argument containing:

**(A)** the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies; and,

**(B)** for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issues or under a separate heading placed before the discussion of the issues); and

**(11)** a short conclusion stating the precise relief sought.

**(b) Brief of the Appellee (or Respondent).** The brief must conform to the requirements of Rule 28 (a), except that none of the following need appear unless the appellee is dissatisfied with the statement of the appellant:

**(1)** the statement of the issues;

**(2)** the statement of the case;

**(3)** the statement of the facts; and

**(4)** the statement of the standard of review.

**(c) Reply Brief.** The appellant may file a brief in reply to the appellee's brief. An appellee who has cross-appealed may file a brief in reply to the appellant's response to the issues presented by the cross-appeal. Unless the court permits, no further briefs may be filed. A reply brief must contain a table of contents, with page references, and a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the reply brief where they are cited.

**(d) References to Parties.** In briefs and at oral argument, counsel should minimize the use of the terms "appellant," "petitioner," "respondent," and "appellee." To make the briefs clear, counsel should use the parties' actual names or the designation used in the Superior Court or agency proceeding, or such descriptive terms as "the employee," "the injured person," "the landlord," or "the tenant."

**(e) References to the Record.** References to the parts of the record contained in the appendix filed with the appellant's brief must be to the pages of the appendix. If reference is made to an unreproduced part of the record, any reference must be to the page of the original document (for example: Answer p. 2; transcript p. 5). A party referring to evidence whose admissibility is in controversy must cite the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

**(f) Reproduction of Statutes, Rules, Regulations, etc.** If the court's determination of the issues presented requires the study of statutes, rules, regulations, etc., the relevant parts must be set out in the brief or in an addendum at the end, or may be supplied to the court in pamphlet form.

**(g) Citations**. A published opinion or order of this court may be cited in any brief. Unpublished orders or opinions of this court may not be cited in any brief, except when relevant (1) under the doctrines of law of the case, res judicata, or collateral estoppel; (2) in a criminal case or proceeding involving the same defendant; or (3) in a disciplinary case involving the same respondent.

**(h) Citation to Administrative Agency Orders, Decisions and Opinions.** On review of orders and decisions of administrative agencies, an internal order, decisions or opinion of the agency in another case may be cited to the court if (1) it is available in a publicly accessible electronic database (the address to which is provided), or (2) a written copy of it is furnished to the court in an addendum at the end of the brief or in the appendix.

**(i) Briefs in a Case Involving a Cross-Appeal.** If a cross-appeal is filed, the party who files a notice of appeal first is the appellant for purposes of this rule and Rules 30, 31, and 34. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by agreement of the parties or by court order. With respect to appellee's cross-appeal and response to appellant's brief, appellee's brief must conform to the requirements of Rule 28 (a). But an appellee who is satisfied with appellant's statement need not include a statement of the case or the facts.

**(j) Briefs in a Case Involving Multiple Appellants or Appellees.** In a case involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a single brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

**(k) Citation of Supplemental Authority.** If pertinent and significant authorities come to a party's attention after the party's brief has been filed, or after oral argument but before decision, a party may promptly advise the Clerk by letter (an original and 3 copies), with a copy to all other parties, setting forth the citations. The letter must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. Any response must be made promptly and must be similarly limited. If the supplemental authorities are not readily available in published form, the party submitting the letter must also submit 4 copies of the authorities to the court.

## Rule 29. Brief of an Amicus Curiae.

### (a) During Initial Consideration of a Case on the Merits.

**(1)** Applicability. This Rule 29 (a) governs amicus filings during the court's initial consideration of a case on the merits.

**(2)** When Permitted. The United States or the District of Columbia, or an officer or agency thereof, or a State, Territory, Commonwealth or political subdivision thereof, may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing.

**(3)** Motion for Leave to File. The motion must be accompanied by the proposed brief and state:

**(A)** the movant's interest; and

**(B)** the reason why an amicus brief is desirable and why the matters asserted

are relevant to the disposition of the case.

**(4)** Contents and Form**.** An amicus brief must comply with Rule 28 (a)(1) and Rule 32. Additionally, the title page or cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If the amicus curiae is a corporation or partnership, the brief must include the disclosure statement required of the parties by Rule 26.1. An amicus brief need not otherwise comply with Rule 28, but must include the following:

**(A)** a table of contents, with page references;

**(B)** a table of authorities — cases (alphabetically arranged), statutes, and other authorities — with references to the pages of the brief where they are cited, and with an asterisk designating the cases chiefly relied upon;

**(C)** a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file; and

**(D)** an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review.

**(5)** Length**.** Except by the court's permission, an amicus brief may not exceed 25 pages.

**(6)** Time for Filing**.** An amicus curiae must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The court may grant leave for later filing, specifying the time within which an opposing party may answer.

**(7)** Reply**.** Except by the court's permission, an amicus curiae may not file a reply brief.

**(8)** Oral Argument**.** An amicus curiae may participate in oral argument only with the court's permission.

**(b) During Consideration of Whether to Grant Rehearing.**

**(1)** Applicability. This Rule 29 (b) governs amicus filings during a court's consideration of whether to grant panel rehearing or rehearing en banc.

**(2)** When Permitted. The United States or the District of Columbia, or an officer or agency thereof, or a State, Territory, Commonwealth or political subdivision thereof, may file an amicus curiae brief without the consent of the parties or leave of court. Any other amicus curiae

may file a brief only by leave of court.

**(3)** Motion for Leave to File. Rule 29 (a)(3) applies to a motion for leave.

**(4)** Contents, Form, and Length. Rule 29 (a)(4) applies to the amicus brief. The brief must not exceed 10 pages.

**(5)** Time for Filing. An amicus curiae supporting the petition for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the petition is filed. An amicus curiae opposing the petition must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for the response.

**Rule 30. Appendix to the Briefs.**

**(a) Appellant's Responsibility.**

**(1) Contents of the Appendix.** The appellant must prepare and file an appendix to the briefs containing:

**(A)** the relevant docket entries in the proceeding below;

**(B)** the relevant pleadings, charge, findings, or opinion;

**(C)** the judgment, order, or decision in question; and

**(D)** other parts of the record to which the parties wish to direct the court's attention.

**(2) Excluded Material.** Memoranda of law filed in the Superior Court should not be included in the appendix unless they have independent relevance. Parts of the record may be relied on by the court or the parties even though not included in the appendix.

**(3) Time to File; Number of Copies.** The appellant must file 4 copies of the appendix with the brief and must serve one copy on counsel for each party separately represented.

**(b) All Parties' Responsibilities.**

**(1) Determining the Contents of the Appendix.** The parties are encouraged to agree on the contents of the appendix. In the absence of an agreement, the appellant must, within 20 days after the Clerk has notified the parties that the record is filed, serve on all other parties a designation of the parts of the record the appellant intends to include in the appendix and a

statement of the issues the appellant intends to present for review. Any other party may, within 10 days after receiving the designation, serve on the appellant a designation of additional parts to which it wishes to direct the court's attention. The appellant must include the designated parts in the appendix. The parties must not engage in unnecessary designation of parts of the record, because the entire record is available to the court. This paragraph applies also to a cross-appellant and a cross-appellee.

**(2) Costs of the Appendix.** Unless the parties agree otherwise, the appellant must pay the cost of the appendix. If the appellant considers parts of the record designated by another party to be unnecessary, the appellant may advise that party, who must then advance the cost of including those parts. The cost of the appendix is a taxable cost. If any party causes unnecessary parts of the record to be included in the appendix, the court may impose the costs of those parts on that party. Appropriate sanctions may also be imposed, after notice and opportunity to respond, against a party or counsel who unreasonably increases litigation costs by including such material in the appendix.

**(c) Format of the Appendix.** The appendix must begin with a table of contents identifying the page at which each part begins. The pages of the appendix must be numbered consecutively. The relevant docket entries must follow the table of contents, and other parts of the record must follow chronologically. When pages from the transcript of proceedings are placed in the appendix, the date of each transcript and the page numbers must be listed on a separate page of the appendix immediately before the included pages. Omissions in the text of papers or of the transcript must be indicated by asterisks. Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) should be omitted.

**(d) Reproduction of Exhibits.** Exhibits designated for inclusion in the appendix may be reproduced in a separate volume, or volumes, suitably indexed. Four copies must be filed with each copy of the appendix, and one copy must be served on counsel for each separately represented party. If a transcript of a proceeding before an administrative agency, board, commission, or officer was used in a Superior Court action and has been designated for inclusion in the appendix, the transcript must be placed in the appendix as an exhibit.

**(e) Appeal on the Original Record Without an Appendix.** For good cause shown, the court may excuse a party from the requirements of producing an appendix, or any part thereof, and permit an appeal to proceed on the original record with any copies of the record, or relevant parts, that the court may order the parties to file.

**(f) Appendix in In Forma Pauperis, Criminal Justice Act, and Neglect Appeals.** No appendix is required in cases in which a party has been permitted to proceed in forma pauperis or counsel has been appointed to represent the party. In such cases, however:

**(1)** The appellant:

**(A)** must file with the brief 4 copies of any opinion, findings of fact, and conclusions of law, whether written or set forth orally in the transcript, that relate to the issues raised on appeal; and

**(B)** may, but is not required to, file with the brief 4 copies of any additional portions of the record to be called to the court's attention.

**(2)** The appellee may file with the brief 4 copies of any portions of the record to be called to the court's attention that were not furnished by the appellant.

**(3)** A copy of this document must be served on counsel for each party separately represented.

**Rule 31. Serving and Filing Briefs.**

**(a) Time to Serve and File a Brief.**

**(1)** The appellant must serve and file a brief within 40 days after the Clerk has notified the parties that the record is filed or, following such notice, after the court has denied a motion for summary affirmance. The appellee must serve and file a brief within 30 days after the appellant's brief is served. The appellant may serve and file a reply brief within 21 days after service of the appellee's brief, but a reply brief must be filed at least 7 days before oral argument.

**(2)** In consolidated appeals, individual appellants or appellees may join to file a single brief. If separate briefs are filed by individual appellants or appellees, the responsive brief or briefs must be filed in the time provided in paragraph (1) of this rule, with the time beginning to run after service of the latest brief to which a response is made.

**(b) Number of Copies.** An original and 3 copies of each brief must be filed with the Clerk, but if the case is to be heard en banc, then an original and 9 copies of each brief must be filed. A copy of each brief must be served on counsel for each separately represented party, as well as on each unrepresented party. By order in a particular case, the court may require the filing or service of a different number of copies.

**(c) Consequence of Failure to File.** If an appellant fails to file a brief within the time provided by this rule, or within the time as extended, an appellee may move to dismiss the appeal. A party who fails to file a brief will not be heard at oral argument unless the court grants permission.

**Rule 32. Form of Briefs, Appendices, and Other Papers.**

**(a) Form of a Brief.**

**(1) Reproduction.**

**(A)** A brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

**(B)** Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

**(C)** Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

**(2) Cover.** Covers are not required, but if a brief with a cover is filed, the appellant's must be blue; the appellee's, red; an intervenor's or amicus curiae's, green; any reply brief, gray; and any supplemental brief, tan. A cover must also conform to Rule 28 (a)(1).

**(3) Binding.** The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

**(4) Paper Size, Line Spacing, and Margins.** The brief must be on 8½ by 11 inch paper. The text must be double spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

**(5) Typeface and Type Style.** The font size, including footnotes, must be 14-point or larger, preferably in Times New Roman or Courier New typeface. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

**(6) Length.** A principal brief may not exceed 50 pages. A reply brief may not exceed 20 pages. Headings, footnotes, and quotations count toward these page limits, but those statements, tables, and addenda required by Rule 28 (a) (1)-(4) and Rule 28 (f) do not count toward the limitation.

**(b) Form of an Appendix.** An appendix must comply with Rule 32 (a)(1)-(4), with the following exceptions:

**(1)** The cover of a separately bound appendix must be white.

**(2)** An appendix may include a legible photocopy of any document found in the record or of a printed judicial or agency decision.

**(3)** When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8½ by 11 inches, and need not lie reasonably flat when opened.

**(c) Form of Other Papers.**

**(1) Motion.** The form of a motion is governed by Rule 27 (d).

**(2) Other Papers.** Any other paper, including a petition for rehearing or rehearing en banc, and any response to such a petition, must be reproduced in the manner prescribed by Rule 32 (a).

**(d) Signature.** Every brief, motion, or other paper filed with the court must be signed by the party filing the paper or, if the party is represented, by one of the party's attorneys.

**(e) Clerk May Refuse to File.** If a brief or other paper does not conform to the rules of this court or is not legible, the Clerk may refuse to file it.

**Rule 33. Calendaring of Cases.**

**(a) Calendar.** Each month the Chief Judge, with the assistance of the Clerk, will prepare and post a calendar of cases to be argued in the second month after the posting. In placing cases on the calendar, the Clerk must give preference to those appeals that have been expedited by statute or order of this court. The calendar will indicate the docket number, the short title of the case, the names of counsel, if any, for each party, and whether the case has been placed on the regular or the summary calendar. The Clerk will notify the parties that the case has been calendared. Because the calendar will be posted in the public office of the Clerk as well as on the court's website, and because it will be published in the Daily Washington Law Reporter, the failure of counsel or a party to receive another notice will not excuse a failure to appear when the case is called for argument.

**(b) Regular Calendar.** Cases on the regular calendar will be scheduled for argument. The Clerk will notify counsel and each unrepresented party of the specific date and time for oral argument approximately 30 days in advance.

**(c) Summary Calendar.** Cases on the summary calendar will not be argued unless a request for argument is approved by the court or argument is ordered sua sponte. Motions for oral argument must demonstrate good cause and be served on all parties and filed with the Clerk within 10 days after notice of calendaring has been mailed by the Clerk.

**Rule 34. Oral Argument.**

**(a) In General.** Argument will be scheduled as provided in Rule 33.

**(b) Postponement.** If counsel or an unrepresented party cannot, for good cause, appear on the scheduled argument date, a motion for postponement must be promptly filed. Proceedings in any trial court, whether federal, state, or local, will not ordinarily be deemed good cause for postponing argument; however, a case may be set first or last in order to accommodate a trial judge.

**(c) Order and Contents of Argument.** The appellant opens and concludes the argument. Counsel must not read at length from briefs, records, or authorities.

**(d) Cross-Appeals, Consolidated Appeals, and Separate Appeals.** If there is a cross-appeal, Rule 28 (I) determines which party is the appellant and which is the appellee for purposes of oral argument. When cases have been consolidated, they are deemed one case for purposes of argument. Separate parties should avoid duplicative argument. Unless the court directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued.

**(e) Nonappearance of a Party.** If the appellee fails to appear for argument, the court ordinarily will hear the appellant's argument. If the appellant fails to appear for argument, the court may hear the appellee's argument. If neither party appears, the case will be decided on the briefs, unless the court orders otherwise. See also Rule 31 (c).

**(f) Submission on Briefs.** The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.

**(g) Time Allowed.**

**(1) Specific Allotments.** Each side will be allowed time for argument in accordance with the court's Internal Operating Procedures.

**(2) Apportionment.** The time allowed may be apportioned between counsel on the same side at their discretion. If counsel on the same side, between whom time is to be apportioned, represent different interests, any agreed upon apportionment must be reported to the court at the opening of the argument; or, if an agreement has not been made, the apportionment will be made by the court.

**(3) Intervenors.** Counsel for an intervenor will be permitted to argue to the extent that counsel on whose side the intervenor has intervened is willing to share the allotted time.

**(4) Motion for Additional Time.** A motion for additional time for argument must be filed within 10 days after the appellee's brief has been filed.

**Rule 35. Petition for Hearing or Rehearing En Banc; En Banc Determination.**

**(a) When Hearing or Rehearing En Banc May Be Ordered.** A majority of the judges who are in regular active service may order that an appeal or other proceeding be heard or reheard en banc. An en banc hearing or rehearing is not favored and ordinarily will not be ordered unless:

**(1)** en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or

**(2)** the proceeding involves a question of exceptional importance.

**(b) Petition.** A party may petition for a hearing or rehearing en banc.

**(1)** The petition must begin with a statement that either:

**(A)** the decision of the division conflicts with controlling authority (with citation to the conflicting case or cases) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or

**(B)** the proceeding involves one or more questions of exceptional importance, each of which must be concisely stated.

**(2)** Except by the court's permission, a petition for an en banc hearing or rehearing must not exceed 15 pages.

**(3)** For the purposes of the page limit in Rule 35 (b)(2), if a party files both a petition for division rehearing and a petition for rehearing en banc, they are considered a single document even if filed separately.

**(4)** In cases consolidated on appeal, a petition filed by one party will not be deemed filed by any other party.

**(c) Time for Petition for Hearing or Rehearing En Banc.** A petition that an appeal be heard initially en banc must be filed by the date when the appellee's brief is due. A petition for rehearing en banc must be filed within the time prescribed by Rule 40 for filing a petition for rehearing.

**(d) Number of Copies.** An original and 10 copies of a petition for hearing or rehearing en banc must be filed.

**(e) Response.** Unless the court requests, no response to a petition for en banc consideration, and no reply to a response, may be filed.

**(f)** The petition and any response or reply must comply in form with Rule 32.

**(g) Call for a Vote.** A vote will not be taken to determine whether the case will be heard or reheard en banc unless a judge in regular active service or a retired judge who was a member of the division that rendered the decision calls for a vote.

**Rule 36. Entry of Judgment; Notice; Opinions.**

**(a) Entry.** A judgment is entered when it is noted on the docket. The Clerk must prepare, sign, and enter the judgment after receiving the court's opinion or, if a judgment is rendered without an opinion, as the court instructs.

**(b) Notice.** On the date when judgment is entered, the Clerk must mail to all counsel or unrepresented parties a copy of the opinion — or the judgment, if no opinion was written — and a notice of the date when the judgment was entered.

**(c) Publication of Opinions.** An opinion may be either published or unpublished. A party or other interested person may request that an unpublished opinion be published by filing a motion within 30 days after issuance of the opinion, stating why publication is merited. The court sua sponte may also publish any previously issued unpublished opinion.

**Rule 37. Interest on Judgment.**

**(a) When the Court Affirms.** Unless the law provides otherwise, if a money judgment in a civil case or agency proceeding is affirmed, whatever interest is allowed by law is payable from the date when the judgment of the Superior Court or the order of the agency was entered.

**(b) When the Court Reverses.** If the court modifies or reverses a judgment with a direction that a money judgment be entered in the Superior Court, interest will be calculated from the date on which the judgment was originally entered in the Superior Court, unless the mandate of this court provides otherwise.

**Rule 38. Sanctions.**

When a party to a proceeding before this court or an attorney practicing before the court takes an appeal or files a petition or motion that is frivolous or interposed for an improper purpose, such as to harass or to cause unnecessary delay, or fails to comply with an order of this court, the court may, on its own motion or on motion of a party, impose appropriate sanctions on the offending party, the attorney, or both. Before doing so on its own motion, the court will give the party notice and an opportunity to respond. Sanctions that may be imposed include dismissal of the appeal;

imposition of single or double costs, expenses, and attorneys' fees; and disciplinary proceedings.

**Rule 39. Costs.**

**(a) Against Whom Assessed.** The following rules apply unless the law provides or the court orders otherwise:

**(1)** if an appeal is dismissed, costs are awarded against the appellant, unless the parties agree otherwise;

**(2)** if a judgment is affirmed, costs are awarded against the appellant;

**(3)** if a judgment is reversed, costs are awarded against the appellee;

**(4)** if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are awarded only as the court orders.

**(b) Costs For or Against the United States.** Costs for or against the United States, its agency, or officer will be awarded under Rule 39 (a) only if authorized by law.

**(c) Costs of Copies.** The costs of reproducing the required copies of briefs and appendices will be awarded either at actual cost or at a rate periodically set by the Clerk to reflect the per page cost for the most economical means of reproduction available in the Washington metropolitan area, whichever is less. The rate set by the Clerk will be published periodically by posting in the Clerk's office and publication in The Daily Washington Law Reporter.

**(d) Bill of Costs and Fees.**

**(1)** A party who wants the court to award costs and fees incurred in prosecuting the appeal must, within 14 days from the entry of judgment, file with the Clerk an itemized and verified bill of costs and fees, accompanied by proof of service. Costs and fees that may be requested include any filing fees; the cost of reporter's transcripts necessary to prosecute the appeal; copying costs listed in Rule 39 (c); postage and other delivery costs, provided the most reasonable means of delivery was used; and the cost of any premiums paid for a bond or other security required to preserve rights pending appeal.

**(2)** Objections to a request for costs and fees must be filed within 10 days after service of the bill of costs and fees, unless the court extends the time.

**(3)** If a petition for rehearing or rehearing en banc is filed, the court will not act upon a bill of costs and fees until the petition has been resolved.

**(4)** Upon approval of a bill of costs and fees, an order will be entered stating the costs and fees awarded. The Clerk will transmit this order to the Clerk of the Superior Court, who must add the fees and costs to the judgment.

**(e) Costs on Appeal in Agency Cases.** Costs and fees incurred in appeals from agency proceedings will be determined and awarded by this court for the benefit of the party entitled to costs under this rule.

**Rule 40. Petition for Rehearing by the Division.**

**(a) Time to File; Contents; Answer; Action by the Division if Granted.**

**(1) Time.** Unless the time is shortened or extended by order, a petition for rehearing by the division may be filed within 14 days after entry of judgment.

**(2) Contents.** The petition must state with particularity each point of law or fact that the petitioner believes the division has overlooked or misapprehended and must argue in support of the petition. Oral argument in support of the petition is not permitted.

**(3) Response.** Unless the division requests, no response to a petition for rehearing by the division, and no reply to a response, may be filed.

**(4) Consolidation.** In cases consolidated on appeal, a petition filed by one party will not be deemed filed by any other party.

**(5) Action by the Division.** If a petition for rehearing by the division is granted, the division may do any of the following:

**(A)** make a final disposition of the case without reargument;

**(B)** restore the case to the calendar for reargument or resubmission; or

**(C)** issue any other appropriate order.

**(b) Form; Length.** Unless the division permits otherwise, a petition for rehearing by the division, or a response if requested by the court, must not exceed 15 pages.

**Rule 41. Mandate: Contents; Issuance and Effective Date; Stay; Remand; Recall; and Disciplinary Matters.**

**(a) Contents.** The mandate consists of a certified copy of the judgment, a copy of the court's

opinion, if any, and any direction about costs.

**(b) When Issued.** The court's mandate will issue 7 calendar days after the time to file a petition for rehearing expires, or 7 calendar days after entry of an order denying a timely petition for division rehearing, rehearing en banc, or motion for stay of mandate, whichever is later. The court may shorten or extend the time.

**(c) Effective Date.** The mandate is effective when issued.

**(d) Staying the Mandate.**

**(1) On Petition for Rehearing or Motion.** The timely filing of a petition for division rehearing, petition for rehearing en banc, or motion for stay of mandate, stays the mandate until disposition of the petition or motion, unless the court orders otherwise.

**(2) Pending Petition for Certiorari.**

**(A)** A party may move to stay the mandate pending the filing of a petition for writ of certiorari in the Supreme Court. The motion must be served on all parties and must show that the certiorari petition would present a substantial question and that there is good cause for a stay.

**(B)** The stay must not exceed 90 days, unless the period is extended for good cause or unless the party who obtained a stay files a petition for the writ and so notifies the Clerk in writing within the period of the stay. In that case, the stay continues until the Supreme Court's final disposition.

**(C)** The court may require a bond or other security as a condition to granting or continuing a stay of the mandate.

**(D)** The Clerk must issue the mandate immediately when a copy of a Supreme Court order denying the petition for writ of certiorari is filed.

**(3) Consolidated Cases.** In cases consolidated on appeal, a petition filed by one party does not operate to stay the mandate as to any other party.

**(e) Remand.** If the record in any case is remanded to the Superior Court or to an agency, the court retains jurisdiction over the case. If the case is remanded, this court does not retain jurisdiction, and a new notice of appeal or petition for review will be necessary if a party seeks review of the proceedings conducted on remand. See *Bell v. United States*, 676 A.2d 37 (D.C. 1996).

**(f) Recall of the Mandate.** Any motion to recall the mandate must be filed within 180 days

from issuance of the mandate.

**(g) Disciplinary Cases.** No mandate will issue in any disciplinary case initiated in this court by a report and recommendation from the Board on Professional Responsibility. Any disbarment or suspension from the practice of law will commence as provided by the District of Columbia Bar Rules.

**Rule 42. Appearance and Withdrawal of Attorneys; Self-representation.**

**(a) Entry of Appearance.** Any filing by an attorney in this court will constitute the entry of an appearance by that attorney as counsel for the party on whose behalf the paper is filed. An attorney may also enter an appearance on a form provided by the Clerk. By entering an appearance on behalf of a party, the attorney certifies that he or she is authorized to represent the party.

**(b) Withdrawal of Appearance.** No attorney may withdraw an appearance without leave of court.

**(c) Self-Representation.** These rules do not prevent a person who is without counsel from prosecuting or defending an appeal in which that person is a party. Any right to proceed pro se does not include the right to represent other parties to the same proceeding.

**Rule 43. Substitution of Parties.**

**(a) Death of a Party.**

**(1) After Notice of Appeal is Filed.** If a party dies after a notice of appeal has been filed or while a proceeding is pending in this court, the decedent's personal representative may be substituted as a party on motion filed with the Clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 25. If the decedent has no representative, any party may suggest the death on the record, and the court may then direct appropriate proceedings.

**(2) Before Notice of Appeal is Filed – Potential Appellant.** If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative – or, if there is no personal representative, the decedent's attorney of record – may file a notice of appeal within the time prescribed by these rules. After the notice of appeal is filed, substitution must be in accordance with Rule 43 (a)(1).

**(3) Before Notice of Appeal is Filed – Potential Appellee.** If a party against whom an appeal may be taken dies after entry of a judgment or order in the Superior Court, but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After

the notice of appeal is filed, substitution must be in accordance with Rule 43 (a)(1).

**(b) Substitution for a Reason Other Than Death.** If a party needs to be substituted for any reason other than death, the procedure prescribed in Rule 43 (a) applies.

**(c) Public Officer; Identification; Substitution.**

**(1) Identification of Party.** A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the court may require the public officer's name to be added.

**(2) Automatic Substitution of Officeholder.** When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. The public officer's successor is automatically substituted as a party. Proceedings following the substitution are to be in the name of the substituted party, but any misnomer that does not affect the substantial rights of the parties may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.

## Rule 44. Challenges to Statutes of the United States or the District of Columbia.

**(a) Constitutional Challenge to a Federal Statute.** If, in a proceeding in this court in which the United States, or its agency, officer, or employee is not a party in an official capacity, a party questions the constitutionality of an Act of Congress, the questioning party must give written notice to the Clerk immediately upon the filing of the record or as soon as the question is raised in this court. The Clerk must then certify that fact to the Attorney General.

**(b) Challenge to a District of Columbia Statute.** If, in a proceeding in this court in which the District of Columbia or its agency, officer, or employee is not a party in an official capacity, a party questions the constitutionality of an act of the Council of the District of Columbia or the validity of such an act under the District of Columbia Self-Government and Reorganization Act, the questioning party must give written notice to the Clerk immediately upon the filing of the record or as soon as the question is raised in this court. The Clerk must then certify this fact to the Corporation Counsel of the District of Columbia. For purposes of this rule, the District of Columbia or its agency, officer, or employee will not be considered a party to the proceedings unless represented by the Corporation Counsel.

## Rule 45. Clerk's Duties.

**(a) When Court is Open.** The Clerk's office will be open during business hours on all days except Saturdays, Sundays, and legal holidays. The Court of Appeals is always open to accept the

filing of any paper related to an appeal and to consider and dispose of emergency matters.

**(b) Records.**

**(1) The Docket.** The Clerk must make entries in appropriate dockets and records of all papers and documents filed with, and orders issued by, the court, and of all proceedings of the court. Cases must be assigned consecutive docket numbers.

**(2) Receipt and Disbursement of Funds.** The Clerk must receive and keep proper accounts of all monies deposited or paid into or out of the Clerk's office, and must make all reports concerning these accounts as may be required by law or directed by the court.

**(c) Notice of an Order or Judgment.** Upon entry of an order or judgment, the Clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket. Service on a party represented by counsel must be made on counsel.

**(d) Custody of Records and Papers.** The Clerk has custody of the court's records and papers. Unless the court orders or instructs otherwise, the Clerk must not permit an original record or paper to be taken from the Clerk's office by any person not an employee of the District of Columbia Courts. Upon disposition of the case, original papers constituting the record on appeal or review must be returned to the court or agency from which they were received. The Clerk must preserve a copy of any brief, appendix, or other paper that has been filed.

## Rule 46. Admission to the Bar.

**(a) Committee on Admissions.**

**(1)** The court shall appoint a standing committee known as the Committee on Admissions (Committee) consisting of at least seven members of the Bar of this court, one of whom shall serve as counsel to the Committee. Each appointment shall be for a term of three years. In case of a vacancy arising before the end of a member's term, the successor appointed shall serve the unexpired term of the predecessor member. When a member holds over after the expiration of the term for which that member was appointed, the time served after the expiration of that term shall be part of a new term. No member shall be appointed to serve longer than two consecutive regular three-year terms, unless an exception is made by the court.

**(2)** Subject to the approval of the court, the Committee may adopt such rules and regulations as it deems necessary to implement the provisions of this rule. The members of the Committee shall receive such compensation and necessary expenses as the court may approve.

**(3)** Members of the Committee and their lawfully appointed designees and staff are immune from civil suit for any conduct in the course of their official duties.

**(b) Admission to the Bar of this jurisdiction**. Admission may be based on

**(1)** examination in this jurisdiction;

**(2)** transfer of a Uniform Bar Examination score attained in another jurisdiction;

**(3)** the applicant's qualifying score on the Multistate Bar Examination administered in another jurisdiction and membership in the bar of such other jurisdiction; or

**(4)** membership in good standing in the bar of another jurisdiction for at least five years immediately prior to the application for admission.

**(c) Admission based on examination in this jurisdiction**.

**(1) Place and Dates of Examination**. The Committee may extend the days for examination for an applicant pursuant to a request for testing accommodations**.**

**(2) Time to Apply and Fees**.

**(A)** An application to take the bar examination shall be submitted in a format approved by the Committee and filed with the Director of Admissions (Director) not later than December 15 for the February examination and May 3 for the July examination unless, for exceptional cause shown, the time is extended by the Committee. The contents of the application to take the examination shall be confidential except upon order of the court.

**(B)** The application shall be accompanied by (1) a payment to the Clerk, D.C. Court of Appeals (Clerk), in an amount and form approved by the Committee and specified by the Director, and (2) payment to NCBE, or proof of payment to NCBE, in an amount and form specified on the application form.

**(C)** Late applications may be filed within 15 days from the closing dates specified in subparagraph (i) and must be accompanied by an additional, non-refundable payment to the Clerk, D.C. Court of Appeals, in an amount and form approved by the Committee.

**(3) Proof of Legal Education in a Law School Approved by the American Bar Association**. An applicant who has graduated from a law school that at the time of graduation was approved by the American Bar Association (ABA) shall be permitted to take the bar examination. Under no circumstances shall such an applicant be admitted to the Bar without first having submitted to the Director a certificate that the applicant has graduated from an ABA-approved law school with a J.D. or LL.B. degree.

**(4) Law Study in a Law School Not Approved by the ABA**. An applicant who graduated from a law school not approved by the ABA shall be permitted to take the bar examination only after successfully completing at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA. All such 26 credit hours shall be earned in courses of study, each of which is substantially concentrated on a single subject tested on the

Uniform Bar Examination.

**(5) Multistate Professional Responsibility Examination**. An applicant for admission by examination shall not be admitted to the Bar unless that applicant has also taken the Multistate Professional Responsibility Examination (MPRE) written and administered by NCBE and has received thereon the minimum required grade as determined by the Committee. Arrangements to take the MPRE, including the payment of any fees therefor, shall be made directly with NCBE. The score received on the MPRE shall not be used in connection with the scoring of the bar examination.

**(6) Examination of Applications**. The Director shall examine each application to determine the applicant's eligibility and to verify the completeness of the application. If eligibility is not demonstrated, the applicant shall be permitted to furnish additional information. If the application is not complete, the needed information shall be provided upon the Director's request.

**(7) Examination Identification Number**. The Director shall assign an examination number to each accepted applicant. Each applicant shall be notified by the Director of the applicant's examination number and shall be furnished an admission card and a list of instructions. Further disclosure of the examination number of any applicant is prohibited.

**(8) General Considerations Regarding the Examination**.

**(A)** The examination shall be the Uniform Bar Examination (UBE) developed by NCBE. The UBE consists of a written component, consisting of the Multistate Essay Examination (MEE) and the Multistate Performance Test (MPT), and a multiple choice component, which is the Multistate Bar Examination (MBE).

**(B)** An applicant may request the Committee to accept an MBE score from a prior examination administration provided that:

**(I)** The prior MBE scaled score is not less than 133; and

**(ii)** The prior administration was within 25 months of the present administration.

**(C)** An applicant may request the Committee to accept a written component score from a prior examination administration in the District of Columbia provided that:

**(i)** The prior written component scaled score is not less than 133; and

**(ii)** The prior administration was within 25 months of the present administration.

**(D)** An applicant requesting acceptance of a score from a prior administration shall submit with the application to sit for the bar examination a score transfer form. Any score earned in a prior administration may not be used to earn a UBE score that can be transferred to seek admission in another U.S. jurisdiction. To earn a transferrable UBE score, an applicant must take

both the written and MBE components in a single administration of the examination.

**(E)** Examination booklets shall be furnished by the Committee. Computers or typewriters furnished by the applicants may be used by prearrangement with the Director.

**(F)** Except by permission of the Committee's representative, no applicant shall leave the examination room during the examination. Each applicant, upon leaving the examination room, shall turn in the examination materials to the Committee's representative.

**(9) Computation of Written Component Scaled Scores**. The raw scores on the written component shall be converted to scaled scores by NCBE in accordance with UBE policies.

**(10) Determining Pass/Fail Status**.

**(A)** An applicant taking the written and MBE components concurrently must attain a combined UBE scaled score of 266 or greater to pass the examination.

**(B)** If an MBE component score from a prior administration is accepted by the Committee under (c)(8)(B) above, the applicant must attain a scaled score of 133 or higher on the written component in the current administration to pass the examination. If a written component score from a prior administration is accepted by the Committee under (c)(8)(C) above, the applicant must attain a scaled score of 133 or higher on the MBE component in the current administration to pass the examination.

**(C)** Before notice and publication of the examination results, the Committee shall review the written component answers of all applicants who have attained a written component scaled score or a combined UBE scaled score within a specified number of points below the passing score, as determined by the Committee.

**(11) Time of Notice and Publication of Results**. Applicants shall be notified in writing of the results of their examination.

**(A)** The Director shall notify each successful applicant of his or her written component scaled score, MBE scaled score, and combined UBE scaled score, as applicable. An alphabetical list of the successful applicants shall be published with the request that any information tending to affect the eligibility of an applicant on moral grounds be furnished to the Committee. The first publication shall be at least 30 days before the Committee reports to the court. A copy of this list shall be posted in the office of the Clerk for three weeks.

**(B)** The Director shall notify in writing each unsuccessful applicant of the applicant's score. The notification shall contain the applicant's raw score for each question in the written component, the written component scaled score, the MBE scaled score, and the combined UBE scaled score.

**(12) Post-examination Review**. Each unsuccessful applicant may review his or her

graded written component answers by executing and returning the review request form so that it is received by the Director by the 30th day after examination results are published. A review of the MBE is not available. The Director shall advise the unsuccessful applicant of the date, time, and place at which the written component answers may be reviewed. The review period shall not exceed three hours.

**(13) Destruction of the Written Component Answers**. Destruction of the applicant answers in the written examination component may commence 30 days from the date of publication of the examination results, but destruction of the written component answers of an unsuccessful applicant who takes advantage of the post-examination review procedure shall be delayed until at least 15 days after the review.

**(14) Previous Failures**. An applicant who has taken the bar examination or a component of the bar examination four times in the District of Columbia and failed to earn a passing score will not be permitted to take a further examination, except upon a showing of extraordinary circumstances. An applicant who has previously taken the bar examination in the District of Columbia four or more times before the effective date of this rule will be permitted to take the bar examination one additional time without a showing of extraordinary circumstances.

**(15) Communication with Committee Members and Graders**. No applicant shall communicate with Committee members or graders concerning any applicant's performance in the examination.

**(d) Admission by transfer of a Uniform Bar Examination score attained in another jurisdiction**.

**(1) Application**. Applicants seeking admission to this Bar on the basis of a UBE score attained in another jurisdiction shall submit to the Director an application in a format approved by the Committee. The content of the application shall be confidential except upon order of the court.

**(2) Fees**. The application shall be accompanied by (1) a payment to the Clerk, D.C. Court of Appeals, in an amount and form approved by the Committee and specified by the Director, and (2) payment to NCBE, or proof of payment to NCBE, in an amount and form specified on the application form.

**(3) Admission Requirements**. An applicant may, upon proof of good moral character as it relates to the practice of law, be admitted to the Bar of this court on the basis of a UBE score attained in another jurisdiction provided that:

**(A)** The combined UBE scaled score, as certified by NCBE, is not less than 266 (the passing combined UBE scaled score);

**(B)** The passing combined UBE scaled score was attained by taking the UBE

not more than five years before the filing of the application;

**(C)** The passing combined UBE scaled score was attained by taking the UBE no more than 4 times, including any attempts in the District of Columbia.

**(D)** The applicant has been awarded a J.D. or LL.B. degree by a law school which, at the time of the awarding of the degree, was approved by the ABA; or, if the applicant graduated from a law school not approved by the ABA, the applicant successfully completed at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA, with all such 26 credit hours having been earned in courses of study, each of which is substantially concentrated on a single subject tested on the UBE; and

**(E)** The applicant has also taken the MPRE written and administered by NCBE and received the minimum required grade as determined by the Committee.

**(e) Admission without Examination of Members of the Bar of Other Jurisdictions**.

**(1) Application**. An application of an applicant seeking admission to this Bar from another state or territory shall be submitted in a format approved by the Committee and filed with the Director. The contents of the application shall be confidential except upon order of the court.

**(2) Fees**. The application shall be accompanied by

**(1)** a payment to the Clerk, D.C. Court of Appeals, in an amount and form approved by the Committee and specified by the Director, and

**(2)** payment to NCBE, or proof of payment to NCBE, in an amount and form specified on the application form.

**(3) Admissions Requirements**. An applicant may, upon proof of good moral character as it relates to the practice of law, be admitted to the Bar of this court without examination in this jurisdiction, provided that the applicant:

**(A)** Has been a member in good standing of a Bar of a court of general jurisdiction in any state or territory of the United States for a period of at least five years immediately preceding the filing of the application; or

**(B) (i)** Has been awarded a J.D. or LL.B. degree by a law school which, at the time of the awarding of the degree, was approved by the ABA; or, if the applicant graduated from a law school not approved by the ABA, the applicant successfully completed at least 26 credit hours of study in a law school that at the time of such study was approved by the ABA, with all such 26 credit hours having been earned in courses of study, each of which is substantially concentrated on a single subject tested on the UBE;

**(ii)** Has been admitted to the practice of law in any state or territory of the

United States upon the successful completion of a written bar examination and has received a scaled score of 133 or more on the MBE which the state or territory deems to have been taken as a part of such examination; and

**(iii)** Has taken and passed, in accordance with paragraph (c)(5), the MPRE.

**(f) Special Legal Consultants.**

**(1) Licensing Requirements**. In its discretion, the court may license to practice as a Special Legal Consultant, without examination, an applicant who:

**(A)** Has been admitted to practice (or has obtained the equivalent of admission) in a foreign country, and is in good standing as an attorney or counselor at law (or the equivalent of either) in that country;

**(B)** Possesses the good moral character and general fitness requisite for a member of the Bar of this court;

**(C)** Intends to practice as a Special Legal Consultant in the District of Columbia and to maintain an office for such practice in the District of Columbia which, if the applicant is a teacher of law at a law school approved by the American Bar Association, may be the office of the teacher at the law school; and

**(D)** Is at least twenty-six years of age.

**(2) Filings Required**.

An applicant for a license to practice as a Special Legal Consultant shall file with the Committee:

**(A)** An application in the form prescribed by the Committee addressed to the court in executive session, which without further order of the court shall be referred to the Committee;

**(B)** Payment to the Clerk, D.C. Court of Appeals, in an amount and form approved by the Committee and specified by the Director;

**(C)** A certificate from the authority in the foreign country having final jurisdiction over professional discipline, certifying to the applicant's admission to practice (or the equivalent of such admission) and the date thereof and to the applicant's good standing as attorney or counselor at law (or the equivalent of either), together with a duly authenticated English translation of such certificate if it is not in English; and

**(D)** A summary of the law and customs of the foreign country that relate to the opportunity afforded to members of the Bar of this court to establish offices for the giving of

legal advice to clients in such foreign country.

**(3)** Upon a showing that strict compliance with the provisions of subparagraph (2) of this paragraph (f) is impossible or very difficult for reasons beyond the control of the applicant, or upon a showing of exceptional professional qualifications to practice as a Special Legal Consultant, the court may, in its discretion, waive or vary the application of such provisions and permit the applicant to make such other showing as may be satisfactory to the court.

**(4)** The Committee may investigate the qualifications, moral character, and general fitness of any applicant for a license to practice as a Special Legal Consultant and may in any case require the applicant to submit any additional proof or information as the Committee may deem appropriate. The Committee may also require the applicant to submit a report from the National Conference of Bar Examiners, and to pay the prescribed fee therefor, with respect to the applicant's character and fitness.

**(5) Opportunity to Establish Law Office in Applicant's Country of Admission**. In considering whether to license an applicant to practice as a Special Legal Consultant, the court may in its discretion take into account whether a member of the Bar of this court would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission. Any member of the Bar who is seeking or has sought to establish an office in that country may request the Court to consider the matter, or the Court may do so sua sponte.

**(6) Scope of Practice**. A person licensed to practice as a Special Legal Consultant may render legal services in the District of Columbia, notwithstanding the prohibitions of Rule 49(b), subject, however, to the limitations that any person so licensed shall not:

**(A)** Appear for a person other than himself or herself as attorney in any court, before any magistrate or other judicial officer, or before any administrative agency, in the District of Columbia (other than upon admission pro hac vice in accordance with Rule 49 (b) or any applicable agency rule) or prepare pleadings or any other papers or issue subpoenas in an action or proceeding brought in any such court or agency or before any such judicial officer;

**(B)** Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;

**(C)** Prepare:

**(i)** Any will or trust instrument effecting the disposition on death of any property located in the United States and owned, in whole or in part, by a resident thereof, or

**(ii)** Any instrument relating to the administration of a decedent's estate in the United States;

**(D)** Prepare any instrument in respect of the marital relations, rights, or duties

of a resident of the United States or the custody or care of one or more children of any such resident;

**(E)** Render professional legal advice on or under the law of the District of Columbia or of the United States or of any state, territory, or possession thereof (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person acting as counsel to such Special Legal Consultant (and not in his or her official capacity as a public employee) duly qualified and entitled (other than by virtue of having been licensed as a Special Legal Consultant under this paragraph (f)) to render professional legal advice in the District of Columbia on such law who has been consulted in the particular matter at hand and has been identified to the client by name;

**(F)** In any way hold himself or herself out as a member of the Bar of this court; or

**(G)** Use any title other than one or more of the following, in each case only in conjunction with the name of the person's country of admission:

**(i)** "Special Legal Consultant";

**(ii)** Such Special Legal Consultant's authorized title in foreign country of his or her admission to practice;

**(iii)** The name of such Special Legal Consultant's firm in that country.

**(7) Disciplinary Provisions**.

Every person licensed to practice as a Special Legal Consultant under this paragraph (f):

**(A)** Shall be subject to the Rules of Professional Conduct of this jurisdiction to the extent applicable to the legal services authorized under this paragraph (f), and shall be subject to censure, suspension, or revocation of his or her license to practice as a Special Legal Consultant by the court; and

**(B)** Shall execute and file with the Clerk, in such form and manner as the court may prescribe:

**(i)** A written commitment to observe the Rules of Professional Conduct;

**(ii)** An undertaking or appropriate evidence of professional liability insurance, in such amount as the court may prescribe, to assure the Special Legal Consultant's proper professional conduct and responsibility;

**(iii)** A duly acknowledged instrument in writing setting forth the Special Legal Consultant's address in the District of Columbia and designating the Clerk of the D.C. Court of Appeals as his or her agent upon whom process may be served, with like effect as if served

personally upon the Special Legal Consultant, in any action or proceeding thereafter brought against the Special Legal Consultant and arising out of or based upon any legal services rendered or offered to be rendered by the Special Legal Consultant within or to residents of the District of Columbia, whenever after due diligence service cannot be made upon the Special Legal Consultant at such address or at such new address in the District of Columbia as he or she shall have filed in the office of the Clerk by means of a duly acknowledged supplemental instrument in writing; and

**(iv)** A written commitment to notify the Clerk of the Special Legal Consultant's resignation from practice in the foreign country of his or her admission or of any censure in respect of such admission, or of any suspension or revocation of his or her right to practice in such country.

**(C)** Service of process on the Clerk pursuant to the designation filed as aforesaid shall be made by personally delivering to and leaving with the Clerk, or with a deputy or assistant authorized by the Clerk to receive service, at the Clerk's office, duplicate copies of such process together with a fee of $10.00. Service of process shall be complete when the Clerk has been so served. The Clerk shall promptly send one of the copies to the Special Legal Consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the Special Legal Consultant at the address given to the court by the Special Legal Consultant as aforesaid.

**(D)** In imposing any sanction authorized by subparagraph (7)(A), the court may act sua sponte, on recommendation of the Board on Professional Responsibility, or on complaint of any person. To the extent feasible, the court shall proceed in a manner consistent with its Rules Governing the Bar of the District of Columbia.

**(8) Affiliation with the District of Columbia Bar**.

**(A)** A Special Legal Consultant licensed under this paragraph (f) shall not be a member of the District of Columbia Bar, provided, however, that a Special Legal Consultant shall be considered an affiliate of the Bar subject to the same conditions and requirements as are applicable to an active or inactive member of the Bar under the court's Rules Governing the Bar of the District of Columbia, insofar as such conditions and requirements may be consistent with the provisions of this paragraph (f).

**(B)** A Special Legal Consultant licensed under this paragraph (4) shall, upon being so licensed, take the following oath before this court, unless granted permission to take the oath in absentia:

"I, _____, do solemnly swear (or affirm) that as a Special Legal Consultant with respect to the laws of_____, licensed by this court, I will demean myself uprightly and according to law."

**(g) Moral Character and General Fitness to Practice Law**. No applicant shall be certified for admission by the Committee until the applicant demonstrates good moral character and general fitness to practice law. The Committee may, in its discretion, give notice of the application by publication in a newspaper or by posting a public notice. For applicants who apply to take the UBE in this jurisdiction, the Committee shall endeavor to complete its character and fitness inquiry so as to be in a position to recommend for or against a successful bar examinee's admission to the practice of law no later than the time the results of the UBE are available. This time limitation is aspirational only, and may be extended when circumstances so require.

**(h) Quantum and Burden of Proof**. The applicant shall have the burden of demonstrating, by clear and convincing evidence, that the applicant possesses good moral character and general fitness to practice law in the District of Columbia.

**(i) Hearing by the Committee**.

**(1)** In determining the moral character and general fitness of an applicant for admission to the Bar, the Committee may act without requiring the applicant to appear before it to be sworn and interrogated or may require the applicant to appear for an informal hearing. If the Committee is unwilling to certify an applicant after an informal hearing, it shall notify the applicant of (A) the adverse matters on which the Committee relied in denying certification, and (B) the choice of withdrawing the application or requesting a formal hearing. Notice shall be given by certified mail at the address appearing on the application. Within 30 days from receipt of the notice, the applicant may file with the Committee a written request for a formal hearing. If the applicant fails to file a timely request for a formal hearing, the applicant's application shall be deemed withdrawn. If the applicant requests a formal hearing within the 30-day period, the request shall be granted and the formal hearing shall be conducted by the Committee under the following rules of procedure:

**(2)** The Director shall give the applicant no less than 10 days' notice of:

**(A)** The date, time, and place of the formal hearing;

**(B)** The adverse matters upon which the Committee relied in denying admission;

**(C)** The applicant's right to review in the office of the Director those matters in the Committee file pertaining to the applicant's character and fitness upon which the Committee may rely at the hearing; and

**(D)** The applicant's right to be represented by counsel at the hearing, to examine and cross-examine witnesses, to adduce evidence bearing on moral character and general fitness to practice law and, for such purpose, to make reasonable use of the court's subpoena power.

**(3)** The hearing before the Committee shall be private unless the applicant

requests that it be public. The hearing shall be conducted in a formal manner; however, the Committee shall not be bound by the formal rules of evidence. It may, in its discretion, take evidence in other than testimonial form and determine whether evidence to be taken in testimonial form shall be taken in person at the hearing or by deposition. The proceedings shall be recorded and the applicant may order a transcript at the applicant's expense.

**(4)** If after the hearing the Committee is of the opinion that an adverse report should be made, it shall serve on the applicant a copy of the report of its findings and conclusions and permit the applicant to withdraw an application within 15 days after the date of the notice. The Committee may, in its discretion, extend this time. If the applicant elects not to withdraw, the Committee shall deliver a report of its findings and conclusions to the court with service on the applicant.

**(j) Review by the Court**.

**(1)** The Committee shall deliver a report of its findings and conclusions to the court for its approval in the case of any applicant for admission after a formal hearing.

**(2)** After receipt of a Committee report, if the court proposes to deny admission, the court shall issue an order to the applicant to show cause why the application should not be denied. Proceedings under this Rule shall be heard by the court on the record made by the Committee on Admissions.

**(3)** Except for the review by the court provided in this paragraph (j), no other review by the court of actions by or proceedings before the Committee shall be had except upon a showing

**(A)** of extraordinary circumstances for instituting such review and

**(B)** that an application for relief has previously been made in the first instance to the Committee and been denied by the Committee, or that an application to the Committee for the relief is not practicable.

**(k) Admission Order**.

**(1)** The Committee shall file with the court a motion to admit the successful applicants by examination, or a certification of attorneys for admission by transferred UBE score or of attorneys for admission without examination, after successful completion of a character and fitness study. Each candidate shall be notified of the time and place for the taking of the oath.

**(2)** An applicant whose name is on an order of admission entered by the court or who is certified for admission by the Committee without a formal hearing shall complete admission within 90 days from the date of the order or the certification by taking the oath prescribed and by signing the roll of attorneys in the office of the Clerk.

**(3)** An applicant who fails to take the oath and sign the roll of attorneys within 90 days from the date of the admission order or the certification may file, within one year from the date of the order or certification, an affidavit with the Director explaining the cause of the delay. Upon consideration of the affidavit, the Committee may reapprove the applicant and file a supplemental motion with the court or may deny the applicant's admission and direct the applicant to file a new application for admission.

**(l) Oath**. An applicant admitted to the Bar of this court shall take the following oath before the court or the Clerk of the court or his or her designee, unless granted permission to be admitted in absentia.

"I_____ do solemnly swear (or affirm) that as a member of the Bar of this court, I will demean myself uprightly and according to law; and that I will support the Constitution of the United States of America."

**Rule 47. Masters.**

**(a) Appointment; Powers**. The court may appoint a special master to held hearings, if necessary, and to recommend factual findings and disposition in matters ancillary to proceedings in the court. Unless the order referring a matter to a master specifies or limits the master's powers, those powers include, but are not limited to, the following:

**(1)** regulating all aspects of a hearing;

**(2)** taking all appropriate action for the efficient performance of the master's duties under the order;

**(3)** requiring the production of evidence on all matters embraced in the reference; and

**(4)** administering oaths and examining witnesses and parties.

**(b) Compensation**. If the master is not a judge or court employee, the court must determine the master's compensation and whether the cost is to be charged to any party.

**Rule 48. Legal Assistance by Law Students.**

**(a) Practice.**

(1)Pursuant to these rules and as part of a clinical program, and eligible law student may

engage in the limited practice of law in the District of Columbia. For purposes of applying this rule, the practice of law shall have the same meaning as it has in D.C. App. R. 49, which defines the unauthorized practice of law. Nevertheless, an eligible student shall not represent a client in any adult criminal case involving a felony in the Superior Court of the District of Columbia. This prohibition on practice in felony cases shall not apply to parole revocation hearings or prison disciplinary actions or to appeals before the District of Columbia Court of Appeals. If the representation occurs before the Superior Court of the District of Columbia, the Office of Administrative Hearings, or an agency of the District of Columbia, the law student must also comply with the rules of that court, agency, or tribunal with respect to student practice. After complying with the certification requirements of this rule, an eligible law student may also engage in the limited practice of law pursuant to the rules of any court, agency, or tribunal of another state of the United States, an international tribunal, or a court or agency of another country which by rule of such court, agency, or tribunal permits such appearance as part of a clinical program. This rule does not govern practice before courts, departments, or agencies of the United States which, by rule or regulation, permit practice by law students. Students practicing pursuant to these rules in a clinical program, as hereinafter defined, may represent any client who is indigent or who, because of limited financial ability or the nature of the claim, would be unlikely to obtain legal representation, or any non-profit organization, if the client or non-profit organization has consented in writing to that appearance or representation. A "supervising lawyer," as hereinafter defined or defined by the relevant non-District of Columbia tribunal, must indicate in writing an approval of the student's appearance or representation.

**(i)** When appearing in any court or agency of the United States or another state of the United States, an international tribunal, or a court or agency of another country, law students and their supervisors shall be bound by the rules of that tribunal governing eligibility to practice and standards of practice and by the ethical rules of that tribunal or by the District of Columbia Rules of Professional Conduct pursuant to Rule 8.5

**(ii)** Students practicing pursuant to this rule must give prominent notice in all business documents of the students' status and that their practice is limited to matters related to the District of Columbia or other state, federal, or foreign court or agency that permits their participation.

**(iii)** The Office of Administrative Hearings and agencies of the District of Columbia may adopt rules governing student practice. If their rules permit, a student may practice before those agencies and tribunals without being enrolled in a clinical program, provided that the student meets the requirement of D.C. App. R. 49(c)(5).

**(2)** An eligible law student may also appear in the Superior Court of the District of Columbia in any criminal case not involving a felony and, irrespective of the nature of the crime, any appeal in the District of Columbia Court of Appeals, any parole revocation or prison disciplinary action, or civil, family, or juvenile matter on behalf of the United States or the District of Columbia with the written approval of the United States Attorney General for the District of Columbia or their authorized representatives and the "supervising lawyer."

**(3)** In accordance with D.C. App. R. 49, the "limited practice of law" described in section (a) (1) includes the following so long as the actions are guided b a supervising lawyer as defined by these rules or the rules of the tribunal in which presentation is provided.

**(i)** Preparing any legal document, including any deeds, mortgages, assignments, discharges, leases, trust instruments or any other instruments intended to affect interests in real or personal property, wills, codicils, instruments intended to affect the disposition of property of decedents' estates, and other instruments intended to affect or secure legal rights;

**(ii)** Preparing or expressing legal opinions;

**(iii)** Appearing before any tribunal that permits student practice;

**(iv)** Preparing any claims, demands or pleadings of any kind, or any written documents containing legal argument or interpretation of law, for filing in any court, administrative agency or other tribunal that permits student practice;

**(v)** Providing advice or counsel as to how any of the activities described in sub-paragraph (A) through (D) might be done, and whether they were done in accordance with applicable law.

**(4)** In each case the written consent and approval referred to in (a) (1) and (a) (2) shall be filed in the record of the case. If representation does not entail a court appearance, such consent shall be part of any retainer agreement entered into by the client.

**(5)** A "clinical program" is a law school program for credit, held under the direction of a faculty member of such law school, in which a law student obtains practical experience in the practice of law or in the operation of the District of Columbia legal system by participating in cases and matters pending before the courts or administrative tribunals, or by otherwise providing legal services to clients with regard to legal issues.

**(b) Requirements and Limitations.**

To be eligible to make an appearance pursuant to this Rule, the law student must:

**(1)** Be enrolled in a District of Columbia law school approved by the American Bar Association and the Admissions Committee of this court, and be enrolled in a clinical course at such law school. A supervised student need not be so enrolled if that student has satisfactorily completed a clinical course in a District of Columbia law school and is either still in law school or working for the clinic in the summer after graduation and is continuing to represent clients of the clinical program. Notice of an extension to continue practice under this rule must be sent by the Dean to the Committee on Admissions. Such extension may be permitted only once and may remain in effect for six months.

**(2)** Have successfully completed one-third of his or her legal studies. Law schools shall establish appropriate pre- and co-requisite instruction to ensure that students are prepared to provide legal representation to clients.

**(3)** Be certified by the dean of the law school as being of good character and competent legal ability, and as being adequately trained to engage in the limited practice of law as defined by these rules.

**(4)** Be registered with the Unauthorized Practice of Law Committee of this Court.

**(5)** Neither ask for nor receive a fee of any kind for any services provided under this rule from any client. Payment of a student research stipend or other law school based support, or a similar grant to a law student or a recent graduate who continues to work on clinic cases after the completion of the clinical course shall not make that student ineligible to practice under this rule. Nothing in this rule shall prevent law school clinic from receiving court-ordered or statutory fees or court-ordered sanctions related to a case or legal matter.

**(6)** Certify in writing that the student has read and is familiar with the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct.

**(C) Certification**.

(1) A certification of a student by the law school dean:

**(i)** Shall be filed with the Committee on Admissions and, unless it is sooner withdrawn, it shall remain in effect until the expiration of one year after it is filed, or until the announcement of the results of the first bar examination given by the Admissions Committee of this Court following the student's graduation, whichever is earlier. The certification may be continued in effect for any student who passes that examination until the student is either admitted by this court or denied admission to the Bar by the Admissions Committee. The certification may also be extended one time for six months if the supervised student has satisfactorily completed a clinical course and is either still in law school or working for the clinic during the summer, and is continuing to represent clients of a clinical program.

**(ii)** May be withdrawn by the dean at any time by mailing a notice to that effect to the Committee on Admissions. It is not necessary that the notice state the cause for withdrawal.

**(iii)** May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination shall be filed with the Committee on Admissions and a copy thereof sent to the law school dean of the particular student.

**(iv)** Once the certification is delivered to the court, the student shall be registered with the Unauthorized Practice Committee and a Student Bar membership card shall be issued.

(2) A certification of the clinical course by the law school dean:

(i) Shall accompany the Dean's certification of the student.

(ii) Shall certify that the clinical course and the pre- or co-requisite instruction are designed to provide the student with classroom or individual instruction to ensure that the student knows and understands the substantive, procedural and evidentiary law required to provide competent representation.

**(d) Other Activities.**

**(1)** In addition to participating in pending cases and matters as provided in section (a)(1) of this Rule, an eligible student may engage in other activities of the "clinical program" under the general supervision, but outside the physical presence, of the supervising lawyer, including those actions defined herein as the "limited practice of law." with the exception of the following: appearing before a tribunal unless the tribunal consents with respect to a non-contested matter; conducting depositions; engaging in contract closings; and engaging in final settlement agreements.

**(2)** All pleadings, briefs, and other documents prepared for a case and delivered to any tribunal, opposing or co-counsel, clients, or other persons involved in the matter for which representation is provided pursuant to these rules must be signed by the student and the supervisor.

**(3)** An eligible law student may participate in oral argument in this Court in the presence of the supervising lawyer in any appeal, including felony and misdemeanor cases, provided that there is filed with the Clerk a written consent from the client to that appearance and the supervising lawyer indicates in writing approval of that appearance.

**(e) Supervision.**

The "supervising lawyer" referred to in this Rule shall:

**(1)** Be a lawyer whose service as a supervising lawyer for the clinical program is approved by the dean of the law school in which the law student is enrolled.

**(2)** Assume full responsibility for guiding the student's work in any pending case or matter or other activity in which the student participates and for supervising the quality of that student's work.

**(3)** Assist the student in preparation of the case or matter, to the extent necessary in the supervising lawyer's professional judgment to insure that the student's participation is effective on behalf of any client represented.

**(4)** Except as provided below for new and visiting faculty members, be an "active" member of the District of Columbia Bar as set forth in the rules of this court governing the Bar of the District of Columbia.

**(i)** New Faculty Members.

**(A)** A supervisor who joins a District of Columbia law school clinical faculty may supervise students if he or she is an active member in good standing of the highest court of any state, has not been suspended or disbarred for disciplinary reasons from practice in any court, and is not subject to any pending disciplinary complaints for violations of the rules of any court, provided that the person has submitted an application for admission to the District of Columbia Bar within ninety (90) days after assuming the position of clinical faculty member in the District of Columbia and has submitted an application to the Court of Appeals for a waiver of this rule.

**(B)** Such faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and connected with the school's clinical program.

**(C)** Such new faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which, pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

**(D)** A new faculty member must cease supervising students if his or her application for admission to the Bar is denied.

**(ii)** Visiting Faculty Members

**(A)** A supervisor who is a visiting faculty member at a District of Columbia law school for one year or less may supervise students without being a member of the District of Columbia Bar if the visiting faculty member is an active member in good standing of the highest court of any state, has not been suspended or disbarred for disciplinary reasons from practice in any court, is not subject to any pending disciplinary complaints for violations of the rules of any court, and has submitted an application to the Court of Appeals for a waiver of this rule.

**(B)** The visiting faculty member shall certify in the application for a waiver that he or she has completed the Mandatory Course on the District of Columbia Rules of Professional Conduct and District of Columbia Practice required for new admittees to the District of Columbia Bar.

**(C)** Such visiting faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and is

connected with the school's clinical program.

**(D)** Visiting faculty may extend their supervisory duties pursuant to this rule for one additional year by filing notice with the District of Columbia Court of Appeals.

**(E)** Such visiting faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

**Rule 49. Unauthorized Practice of Law.**

**(a) General Rule.** No person shall engage in the practice of law in the District of Columbia or in any manner hold out as authorized or competent to practice law in the District of Columbia unless enrolled as an active member of the District of Columbia Bar, except as otherwise permitted by these Rules.

**(b) Definitions.** The following definitions apply to the interpretation and application of this rule:

**(1) "Person"** means any individual, group of individuals, firm, unincorporated association, partnership, corporation, mutual company, joint stock company, trust, trustee, receiver, legal or business entity.

**(2) "Practice of Law"** means the provision of professional legal advice or services where there is a client relationship of trust or reliance. One is presumed to be practicing law when engaging in any of the following conduct on behalf of another:

**(A)** Preparing any legal document, including any deeds, mortgages, assignments, discharges, leases, trust instruments or any other instruments intended to affect interests in real or personal property, will, codicils, instruments intended to affect the disposition of property of decedents' estates, other instruments intended to affect or secure legal rights, and contracts except routine agreements incidental to a regular course of business;

**(B)** Preparing or expressing legal opinions;

**(C)** Appearing or acting as an attorney in any tribunal;

**(D)** Preparing any claims, demands or pleadings of any kind, or any written documents containing legal argument or interpretation of law, for filing in any court, administrative agency or other tribunal;

**(E)** Providing advice or counsel as to how any of the activities described in subparagraph (A) through (D) might be done, or whether they were done, in accordance with applicable law;

**(F)** Furnishing an attorney or attorneys, or other persons, to render the services described in subparagraphs (a) through (e) above.

**(3) "In the District of Columbia"** means conduct in, or conduct from an office or location within, the District of Columbia.

**(4) "Hold out as authorized or competent to practice law in the District of Columbia"** means to indicate in any manner to any other person that one is competent, authorized, or available to practice law from an office or location in the District of Columbia. Among the characterizations which give such an indication are "Esq.," "lawyer," "attorney at law," "counselor at law," "contract lawyer," "trial or legal advocate," "legal representative," "legal advocate," and "judge."

**(5) "Committee"** means the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law, as constituted under this rule.

**(C) Exceptions.** The following activity in the District of Columbia is excepted from the prohibitions of section (a) of this Rule, provided the person is not otherwise engaged in the practice of law or holding out as authorized or competent to practice law in the District of Columbia:

**(1) United States Government Employee:** Providing authorized legal services to the United States as an employee thereof;

**(2) United States Government Practitioner:** Providing legal services to members of the public solely before a special court, department or agency of the United States, where:

**(A)** Such legal services are confined to representation before such fora and other conduct reasonably ancillary to such representation;

**(B)** Such conduct is authorized by statute, or the special court, department or agency has adopted a rule expressly permitting and regulating such practice; and

**(C)** If the practitioner has an office in the District of Columbia, the practitioner expressly gives prominent notice in all business documents of the practitioner's bar status and that his or her practice is limited consistent with this section (c).

**(3) Practice Before a Court of the United States:** Providing legal services in or reasonably related to a pending or potential proceeding in any court of the United States if the

person has been or reasonably expects to be admitted to practice in that court, provided that if the practitioner has an office in the District of Columbia, the practitioner expressly gives prominent notice in all business documents of the practitioner's bar status and that his or her practice is limited consistent with this section (c).

**(4) District of Columbia Employee:** Providing legal services for his or her employer during the first 360 days of employment as a lawyer by the government of the District of Columbia, where the person is an enrolled Bar member in good standing of a state or territory, is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court, and has been authorized by her or his government agency to provide such services;

**(5) District of Columbia Practitioner:** Providing legal services to members of the public solely before a department or agency of the District of Columbia government, where:

**(A)** Such representation is confined to appearances in proceedings before tribunals of that department or agency and other conduct reasonably ancillary to such proceedings;

**(B)** Such representation is authorized by statute, or the department or agency has authorized it by rule and undertaken to regulate it;

**(C)** If the practitioner has an office in the District of Columbia, the practitioner expressly gives prominent notice in all business documents of the practitioner's bar status and that his or her practice is limited consistent with this section (c); and

**(D)** If the practitioner does not have an office in the District of Columbia, the practitioner expressly gives written notice to clients and other parties with respect to any proceeding before tribunals of that department or agency and any conduct reasonably ancillary to such proceedings of the practitioner's bar status and that his or her practice is limited consistent with this section (c).

**(6) Internal Counsel:** Providing legal advice only to one's regular employer, where the employer does not reasonably expect that it is receiving advice from a person authorized to practice law in the District of Columbia;

**(7) *Pro Hac Vice* In the Courts of the District of Columbia:** Providing legal services in or reasonably related to a pending or potential proceeding in a court of the District of Columbia, if the person has been or reasonably expects to be admitted *pro hac vice*, provided:

**(I) Limitation to 5 Applications Per Year.** No person may apply for admission *pro hac vice* in more than five (5) cases pending in the courts of the District of Columbia per calendar year, except for exceptional cause shown to the court.

**(ii) Applicant Declaration.** Each application for admission *pro hac vice*

shall be accompanied by a declaration under penalty of perjury:

**(1)** certifying that the applicant has not applied for admission *pro hac vice* in more than five cases in courts of the District of Columbia in this calendar year,

**(2)** identifying all jurisdictions and courts where the applicant is a member of the bar in good standing,

**(3)** certifying that there are no disciplinary complaints pending against the applicant for violation of the rules of any jurisdiction or court, or describing all pending complaints,

**(4)** certifying that the applicant has not been suspended or disbarred for disciplinary reasons or resigned with charges pending in any jurisdiction or court, or describing the circumstances of all suspensions, disbarments, or resignations,

**(5)** certifying that the person has not had an application for admission to the D.C. Bar denied, or describing the circumstances of all such denials;

**(6)** agreeing promptly to notify the Court if, during the course of the proceeding, the person is suspended or disbarred for disciplinary reasons or resigns with charges pending in any jurisdiction or court;

**(7)** identifying by name, address, and D.C. Bar number the D.C. Bar member with whom the applicant is associated under Super. Ct. Civ. R. 101,

**(8)** certifying that the applicant does not practice or hold out to practice law in the District of Columbia or that the applicant qualifies under an identified exception in Rule 49(c),

**(9)** certifying that the applicant has read the rules of the relevant division of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals, and has complied fully with District of Columbia Court of Appeals Rule 49 and, as applicable, Super. Ct. Civ. R. 101,

**(10)** explaining the reasons for the application,

**(11)** acknowledging the power and jurisdiction of the courts of the District of Columbia over the applicant's professional conduct in or related to the proceeding, and

**(12)** agreeing to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct in the matter, if the applicant is admitted *pro hac vice*.

**(iii) Office Outside of D.C.** No person who maintains or operates from an office or location for the practice of law within the District of Columbia may be admitted to

practice before a court of the District of Columbia *pro hac vice*, unless that person qualifies under another express exception provided in section (c) hereof.

**(iv) Supervision.** Any person admitted *pro hac vice* must comply with Super. Ct. Civ. R. 101 and other applicable rules of the District of Columbia courts.

**(v) Application Fee.** Application to participate *pro hac vice* shall be accompanied by a fee of $100.00 to be paid to the Clerk of Court. Proof of payment of the fee shall accompany the application for admission *pro hac vice*. The application fee shall be waived for a person whose conduct is covered by section (c)(9) hereof, or whose client's application to proceed *in forma pauperis* has been granted.

**(vi) Filing.** The applicant first shall submit a copy of the application to the office of the Committee, pay the application fee, and there receive a receipt for payment of the fee; whereupon the applicant shall file the application with the receipt in the appropriate office of the Clerk of Court. Only certified checks, cashiers checks, or money orders will be accepted in payment of the fee, made payable to "Clerk, D.C. Court of Appeals." The application will not be accepted for filing without the required receipt.

**(vii) Power of the Court.** The court to which the relevant litigation matter is assigned may grant or deny applications, and withdraw admissions to participate *pro hac vice* in its discretion.

**(8) Limited Duration Supervision By D.C. Bar Member:** Practicing law from a principal office located in the District of Columbia, while an active member in good standing of the highest court of a state or territory, and while not disbarred or suspended for disciplinary reasons or after resignation with charges pending in any jurisdiction or court, under the direct supervision of an enrolled, active member of the District of Columbia Bar, for one period not to exceed 360 days from the commencement of such practice, during pendency of a person's first application for admission to the District of Columbia Bar; *provided* that the practitioner has submitted the application for admission within ninety (90) days of commencing practice in the District of Columbia, that the District of Columbia Bar member takes responsibility for the quality of the work and complaints concerning the services, that the practitioner or the District of Columbia Bar member gives notice to the public of the member's supervision and the practitioner's bar status, and that the practitioner is admitted *pro hac vice* to the extent he or she provides legal services in the courts of the District of Columbia.

**(9) Pro Bono Legal Services:** Providing legal services *pro bono publico* in the following circumstances:

**(A)** Where the person is an enrolled, inactive member of the District of Columbia Bar who is employed by or affiliated with a legal services or referral program in any matter that is handled without fee and who is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court; provided that, if the matter

requires the attorney to appear in court, the attorney shall file with the court having jurisdiction over the matter, and with the Committee, a certificate that the attorney is providing representation in that particular case without compensation.

**(B)** Where the person is a member in good standing of the highest court of any state, is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court, and is employed by the Public Defender Service, or is employed by or affiliated with a non-profit organization located in the District of Columbia that provides legal services for indigent clients without fee or for a nominal processing fee; provided that the person has submitted an application for admission to the District of Columbia Bar within ninety (90) days after commencing the practice of law in the District of Columbia, and that such attorney is supervised by an enrolled, active member of the Bar who is employed by or affiliated with the Public Defender Service or the non–profit organization.

**(C)** Where the person is an officer or employee of the United States, is a member in good standing of the highest court of a state or territory, is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court, and is assigned or referred by an organization that provides legal services to the public without fee; provided that the person is supervised by an enrolled, active member of the District of Columbia Bar.

An attorney practicing under this section (c)(9) shall give notice of his or her bar status, and shall be subject to the District of Columbia Rules of Professional Conduct and the enforcement procedures applicable thereto to the same extent as if he or she were an enrolled, active member of the District of Columbia Bar.

An attorney may practice under Part (B) of this section (c)(9) for no longer than 360 days from the date of employment by or affiliation with the Public Defender Service or the non-profit organization, or until admitted to the Bar, whichever first shall occur.

**(D)** Where the person is an internal counsel, is a member in good standing of the highest court of a state or territory, is not disbarred or suspended for disciplinary reasons, and has not resigned with charges pending in any jurisdiction or court, and is assigned or referred by an organization that provides legal services to the public without fee; provided that the individual is supervised by an active member of the District of Columbia Bar.

**(10) Specifically Authorized Court Programs:** Providing legal services to members of the public as part of a special program for representation or assistance that has been expressly authorized by the District of Columbia Court of Appeals or the Superior Court of the District of Columbia, provided that the person gives notice of his or her bar status and is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court.

**(11) Limited Practice for Corporations:** Appearing in defense of a corporation

or partnership in a small claims action, or in settlement of a landlord-tenant matter, through an authorized officer, director, or employee of the organization; provided:

**(A)** the organization must be represented by an attorney if it files a cross-claim or counterclaim, or if the matter is certified to the Civil Action Branch; and

**(B)** the person so appearing shall file at the time of appearance an affidavit vesting in the person the requisite authority to bind the organization.

**(12) Practice in ADR Proceedings:** Providing legal services in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution ("ADR") proceeding, provided:

**(i)** The person is authorized to practice law by the highest court of a state or territory or by a foreign country, and is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court.

**(ii)** The person may begin to provide such services in no more than five (5) ADR proceedings in the District of Columbia per calendar year.

**(iii)** The person does not maintain or operate from an office or location for the practice of law within the District of Columbia or otherwise practice or hold out to practice law in the District of Columbia, unless that person qualifies under another express exception provided in section (c) hereof.

**(13) Incidental and Temporary Practice:** Providing legal services in the District of Columbia on an incidental and temporary basis, provided that the person is authorized to practice law by the highest court of a state or territory or by a foreign country, and is not disbarred or suspended for disciplinary reasons and has not resigned with charges pending in any jurisdiction or court.

**(d) The Committee on Unauthorized Practice of Law.**

**(1)** The court shall appoint a standing committee known as the Committee on Unauthorized Practice of Law consisting of at least six, and not more than twelve, members of the Bar of this court and of one resident of the District of Columbia who is not a member of the Bar. The Chair and Vice Chair shall be designated by the court. Each member shall serve for the term of three years and until their successors have been appointed. In case of vacancy caused by death, resignation or otherwise, a successor appointed shall serve the unexpired term of the predecessor member. When a member holds over after the expiration of the term for which appointed, the term the member serves after the expiration of the term for which the member was appointed shall be part of a new term. No member shall be appointed to serve longer than two consecutive regular three year terms, unless special exception is made by the court.

**(2)** Subject to the approval of the court, the Committee shall adopt such rules and regulations as it deems necessary to carry out the provisions of this rule. The Committee may subpoena the respondent, witnesses and documents upon application to the court by the Chair or the Chair's designee. The Committee may appear in its own name in legal proceedings addressing issues relating to the performance of its functions and compliance with this Rule. The members of the Committee shall receive such compensation and necessary expenses as the court may approve.

**(3) Rules of Procedure.**

**(A)** Officers, members, and duties.

**(i)** The Chair shall preside at all meetings of the Committee; and in the Chair's absence, the Vice Chair shall preside.

**(ii)** The Chair, Vice Chair, and members shall investigate matters of alleged unauthorized practice of law and alleged violations of court rules governing same, and if warranted, the Committee shall take such actions as are provided in these rules.

**(iii)** In addition to the duties described herein, the Committee shall determine whether to approve the legal programs identified in Rule 48.

**(iv)** A deputy Clerk of this court shall be designated by the court to serve as Executive Secretary to the Committee and shall provide such staff and secretarial services as may be needed.

**(B) Meetings.**

**(i)** Any matter under investigation by the Committee shall remain confidential until initiation of formal proceedings under section (3)(D) hereof. So as to ensure this confidentiality, the Committee shall meet in executive session. At least eight meetings shall be called each year.

**(ii)** The Committee shall meet at the call of the Chair. A special meeting of the Committee shall be held if a majority of its members request such a meeting by notifying the Executive Secretary.

**(iii)** Members who are unable to attend a meeting shall so notify the Chair or the Executive Secretary at least two days in advance of the meeting.

**(iv)** The Chair shall determine the order of business.

**(v)** A quorum shall consist of four members, and all decisions shall be made by a majority of those members present and voting.

**(vi)** In appropriate circumstances, as may be determined by the Chair, a telephone or electronic vote of a majority of members polled, numbering no less than four Committee members concurring in a decision, shall constitute a Committee decision. Any such decision shall be recorded in the minutes of the next Committee meeting.

**(vii)** Minutes of all Committee meetings shall be prepared under the direction of the Executive Secretary, with copies of same furnished to all members of the Committee and to the chief judge or a judge designated by the chief judge.

**(C) Investigation.**

**(i)** Whenever a complaint is filed with the Committee or upon its own volition, the matter shall be assigned by the Chair, on a random basis or as the Chair otherwise determines may be appropriate, to a Committee member for preliminary investigation. This investigation shall consist of an analysis of the complaint, a survey of the applicable law, and discussions with witnesses and/or the respondent. It shall not be deemed a breach of the confidentiality required of an assigned matter for the Committee or one of its members to reveal facts and identities in pursuit of the investigation of the matter.

**(ii)** At the next regular meeting of the Committee, the Committee shall hear a report of the investigating member for the purpose of determining what action, if any, shall be taken by the Committee. Complaints shall be investigated and reported upon within six weeks. Delays shall be brought to the Chair's attention by the Executive Secretary.

**(iii)** If the Committee concludes that formal proceedings are necessary to assist its determination, such may be held as specified in section (3)(D) below.

**(D) Formal Proceedings.**

**(i)** To assist the Committee in performing its functions it may take sworn testimony of witnesses and/or the respondent.

**(ii)** Formal proceedings before the Committee shall be commenced by written notice to the respondent informing the respondent of the nature of the respondent's conduct which the Committee believes may constitute the unauthorized practice of law. The respondent shall be given 15 days to respond. Upon receipt of this response (or if no response is submitted), the matter shall be scheduled for a hearing. A copy of Rule 49 shall also be transmitted to the respondent with the written notice.

**(iii)** The respondent may request permission to present evidence and witnesses in addition to the respondent's own testimony, but such proffers shall be allowed only in the discretion of the Committee. The respondent may be accompanied by counsel. To avoid harassment, the Committee may in its discretion limit the participation of the respondent and counsel in presentation of evidence by persons complaining of violations of this Rule 49.

Formal rules of evidence shall not apply. The Chair may apply to the court for issuance of a subpoena to any witness or to the respondent.

**(iv)** When appropriate, a post-hearing conference may be held between respondent and the investigation Committee member (or another Committee member designated by the Chair) for the purpose of informing the respondent of the findings of the Committee and action it proposes.

**(E) Actions by the Committee.**

**(i)** During any stage of the investigation or formal proceedings the Committee may dispose of any matter pending before it by any of the following methods:

**(ii)** If no evidence of unauthorized practice is found, the matter shall be closed and the complainant notified.

**(iii)** If the respondent agrees to cease and desist from actions which appear to constitute the unauthorized practice of law, the matter may be closed by formal agreement, consent order, or both, with notification of such action given to the complainant. Such formal agreement or consent order may require restitution to the clients of fees obtained by the respondent.

**(iv)** If warranted, the Committee may initiate proceedings to enforce this Rule under section (e), provided, however, that action pursuant to this subsection is preceded by the formal proceedings specified in section (d)(3)(D) above.

**(v)** The Committee may also refer cases to the Office of the United States Attorney for investigation and possible prosecution or to other appropriate authorities.

**(F) Closed Files.**

Upon the closing of a file by the Committee, the file shall be retained in the records of the court.

**(G) Opinions.**

**(i)** The Committee may by approval of a majority of its members present in quorum provide opinions, upon the request of a person or organization, as to what constitutes the unauthorized practice of law. Such opinions shall be published in the same manner as opinions rendered under the Rules of Professional Conduct.

**(ii)** Conduct of a person which was undertaken in good faith, in conformity with, and in reliance upon a written interpretation or opinion of the Committee requested by that person shall constitute a prima facie showing of compliance with Rule 49 in any

investigation or proceeding before the Committee or the Court of Appeals.

**(e) Proceedings Before The Court of Appeals.**

**(1)(A)** The Committee may initiate an original proceeding before the Court of Appeals for violation of this Rule 49. The proceeding shall be initiated by a petition served on the respondent or his designated counsel.

**(B)** The Court may, on motion of the Committee or sua sponte, appoint a special counsel to represent the Committee and to present the Committee's proof and argument in such proceeding.

**(2)** Violations of the provisions of this Rule 49 shall be punishable by the Court of Appeals as contempt and/or subject to injunctive relief. The Court of Appeals holds the power to include within its remedy compensation to persons harmed by violation of this Rule or of an injunction entered under it.

**(3)** Such proceedings shall be conducted before a judge of the District of Columbia designated by the Chief Judge of the Court of Appeals under the D.C. Code, and shall be governed by the Rules of the Superior Court of the District of Columbia.

**(4)** Decisions of the designated judge are final and effective determinations which are subject to review in the normal course, by the filing of a notice of appeal by any party with the Clerk of the Court of Appeals within 30 days from the entry of the judgment by the designated judge.

**COMMENTARY**

The following Commentary provides guidance for interpreting the Rule and acting in compliance with it, but in proceedings before the court or the Committee on Unauthorized Practice the text of the Rule shall govern.

Commentary to § 49 (a):

Section (a) states the general prohibition of the rule, formerly set forth in Rule 49 (b)(1). It is intended to retain the essential meaning of the original text as adopted by the Court of Appeals. It adds for clarification that the Rule applies unless an exception is provided.

The Rule is applied first by determining whether the conduct in question falls within the definitions of practicing law or holding out to practice law in the District of Columbia. If the conduct falls within those definitions, such conduct by a person not admitted to the Bar is a violation of the Rule, unless there is an express exception covering the conduct.

While one has a right to represent oneself, there is no right to represent or advise another as a lawyer. Authority to provide legal advice and services to others is a privilege granted only to those who have the education, competence and fitness to practice law. When one is formally recognized to possess those qualifications by admission to the Bar, he or she is authorized to practice law.

The rule prohibits both the implicit representation of authority or competence by engaging in the practice of law, and the express holding out of oneself as authorized or qualified to practice law in the District of Columbia.

This rule against unauthorized practice of law has four general purposes:

(1) To protect members of the public from persons who are not qualified by competence or fitness to provide professional legal advice or services;

(2) To ensure that any person who purports or holds out to perform the services of a lawyer is subject to the disciplinary system of the District of Columbia Bar;

(3) To maintain the efficacy and integrity of the administration of justice and the system of regulation of practicing lawyers; and

(4) To ensure that that system and other activities of the Bar are appropriately supported financially by those exercising the privilege of membership in the District of Columbia Bar.

See also the commentary to section (b)(2), below, concerning the activities of persons relating to legal matters where a license to practice law is not required.

Competence and fitness to practice law are safeguarded by the examination and character screening requirements of the admissions process, and by the disciplinary system. The Bar further protects the interests of members of the public by maintaining a clients' security fund through membership dues.

Commentary to § 49 (b):

Although section (b) of the original rule included definitions, not all of the essential terms were defined. The new section (b) follows the conventional approach of rules and statutes in defining such terms.

Commentary to § 49 (b)(2):

As originally stated in sections (b)(2) and (3) of the prior Rule, the "practice of law" was broadly defined, embracing every activity in which a person provides services to another relating to legal rights. This approach has been refined, in recognition that there are some legitimate activities of non-Bar members that may fall within an unqualifiedly broad definition of "practice of law."

The definition set forth in section (b)(2) is designed to focus first on the two essential elements of the practice of law: The provision of legal advice or services, and a client relationship of trust or reliance. Where one provides such advice or services within such a relationship, there is an implicit representation that the provider is authorized or competent to provide them; just as one who provides any services requiring special skill gives an implied warranty that they are provided in a good and workmanlike manner. *See, e.g., Ehrenhaft v. Malcolm Price, Inc.*, 483 A.2d 1192, 1200 (D.C.1984); *Carey v. Crane Service Co., Inc.*, 457 A.2d 1102, 1107 (D.C.1983).

Recognizing that the definition of "practice of law" may not anticipate every relevant circumstance, the Rule adopts four methods of definition: (1) the more refined definition focusing on the provision of legal advice or services and a client relationship of trust or reliance; (2) an enumerated list of the most common activities which are rebuttably presumed to be the practice of law; (3) this commentary; and (4) opinions of the Committee on Unauthorized Practice of Law where further questions of interpretation may arise. See section (d)(3)(G) below.

The definition of "practice of law," the list of activities, this commentary and opinions of the Committee on Unauthorized Practice of Law are to be considered and applied in light of the purposes of the Rule, as set forth in the commentary to sections (a) and (b).

The presumption that one's engagement in one of the enumerated activities is the "practice of law" may be rebutted by showing that there is no client relationship of trust or reliance, or that there is no explicit or implicit representation of authority or competence to practice law, or that both are absent.

While the Rule is meant to embrace every client relationship where legal advice or services

are rendered, or one holds oneself out as authorized or competent to provide such services, the Rule is not intended to cover conduct which lacks the essential features of an attorney-client relationship.

For example, a law professor instructing a class in the application of law to a particular, real situation is not engaged in the practice of law because she is not undertaking to provide advice or services for one or more clients as to their legal interests. An experienced industrial relations supervisor is not engaged in the practice of law when he advises his employer what he thinks the firm must do to comply with state or federal labor laws, because the employer does not reasonably expect it is receiving a professional legal opinion. See also the exception for Internal Counsel set forth in section (c)(6). Law clerks, paralegals and summer associates are not practicing law where they do not engage in providing advice to clients or otherwise hold themselves out to the public as having authority or competence to practice law. Tax accountants, real estate agents, title company attorneys, securities advisors, pension consultants, and the like, who do not indicate they are providing legal advice or services based on competence and standing in the law are not engaged in the practice of law, because their relationship with the customer is not based on the reasonable expectation that learned and authorized professional legal advice is being given. Nor is it the practice of law under the Rule for a person to draft an agreement or resolve a controversy in a business context, where there is no reasonable expectation that she is acting as a qualified or authorized attorney.

The Rule is not intended to cover the provision of mediation or alternative dispute resolution ("ADR") services. This intent is expressed in the first sentence of the definition of the "practice of law" which requires the presence of two essential factors: The provision of legal advice or services and a client relationship of trust or reliance. ADR services are not given in circumstances where there is a client relationship of trust or reliance; and it is common practice for providers of ADR services explicitly to advise participants that they are not providing the services of legal counsel.

While payment of a fee is often a strong indication of an attorney-client relationship, it is not essential.

Ordinarily, one who provides or offers to provide legal advice or services to clients in the District of Columbia implies to the consumer that he or she is authorized and competent to practice law in the District of Columbia. It is not sufficient for a person who is not an enrolled, active member of the District of Columbia Bar merely to give notice that he is not a lawyer while engaging in conduct that is likely to mislead consumers into believing he is a licensed attorney at law. Where consumers continue to seek services after such notice, the provider must take special care to assure that they understand that the person they are consulting does not have the authority and competence to render professional legal services in the District of Columbia. *See In re: Banks*, 561 A.2d 158 (D.C. 1987).

The Rule also confines the practice of law to provision of legal services under engagement for another. One who represents himself or herself is not required to be admitted to the District of

Columbia Bar.

The conduct described in section (b)(2)(F) concerning the furnishing of attorneys is not intended to include legitimate or official referral services, such as those offered by the District of Columbia Bar, bar associations, labor organizations, non-fee pro bono organizations, and other court-authorized organizations.

Commentary to § 49 (b)(3):

Section (b)(3) clarifies by explicit definition the geographic extent of the Rule.

The Rule is intended to regulate all practice of law within the boundaries of the District of Columbia. The fact that an attorney is associated with a law firm that maintains an office in the District of Columbia does not, of itself, establish that that attorney is maintaining an office in the District of Columbia.

The practice of law subject to this Rule is not confined to the matters subject to the law of the District of Columbia. The Rule applies to the practice of all substantive areas of the law and requires admission to the District of Columbia Bar where the practice is carried on in the District of Columbia and does not fall within one of the exceptions enumerated in section (c).

A lawyer is engaged in the practice of law in the District of Columbia when the lawyer provides legal advice from an office or location within the District. That is true if the lawyer practices in a residence or in a commercial building, if all of the lawyer's clients are located in other jurisdictions, if the lawyer provides legal advice only by telephone, letter, email, or other means, if the lawyer provides legal advice only concerning the laws of jurisdictions other than the District of Columbia, or if the lawyer informs the client that the lawyer is not authorized to practice law in the District of Columbia and does not provide advice about District of Columbia law. A lawyer in the District of Columbia who advises clients or otherwise provides legal services in another jurisdiction may be subject to the rules of that jurisdiction concerning unauthorized practice of law.

Rule 49 applies only if a lawyer is physically present in the District of Columbia at least once during the course of a matter. Even if a matter involves a client, and a dispute or transaction, in the District, the Rule does not apply if a lawyer located outside the District advises a client in-person only when the client visits the lawyer in the lawyer's office, or if the lawyer advises the client only by telephone, regular mail, or electronic mail. However, if a lawyer is physically present in the District even once during the course of a matter, the lawyer may be engaged in the District of Columbia in the practice of law with respect to the entire matter, even if the lawyer otherwise operates only from a location outside the District.

The definition of "in the District of Columbia" is intended to cover the practice of law within the District under the supervision of, or in association with, a member of the District of Columbia Bar. Persons who provide legal services as lawyers with law firms and other legal

organizations in the District of Columbia, with or without bar memberships elsewhere, are practicing law in the District and are in violation of the Rule, unless they fall within one of the express exceptions set forth in section (c).

Commentary to § 49 (b)(4):

As a regulation with a purpose to protect the public, the rule requires that representation of non-Bar members must avoid giving the impression to persons not learned in the law that a person is a qualified legal professional subject to the high ethical standards and discipline of the District of Columbia Bar.

The listing of terms, which normally indicate one is holding oneself out as authorized or qualified to practice law, is not intended to be exhaustive. The definition of "hold out" is intended to cover any conduct which gives the impression that one is qualified or authorized to practice. *See In Re: Banks*, 561 A.2d 158 (D.C. 1987).

A person or a law firm may hold out that person as authorized or competent to practice law in the District of Columbia by describing that person as a "contract lawyer." *See* Opinion 16-05 of the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law. In general, Rule 49 applies to contract lawyers to the same extent that it applies to other lawyers.

Where a member of the public correctly understands that a person is not admitted to the District of Columbia Bar but is nonetheless offering to perform services functionally equivalent to those performed by a lawyer, that person is subject to sanction under the consumer protection statutes of the District of Columbia. *See Banks v. D.C. Dept. of Consumer and Regulatory Affairs*, 634 A.2d 433 (D.C. 1993).

Commentary to § 49 (c)(1):

Section (c)(1) is new. It is designed to state expressly what has been implicit in prior interpretations and application of the Rule; and it removes the implication of former section (c)(2) that representatives of the federal government must become members of the District of Columbia Bar or appear pro hac vice. Attorneys employed by departments, agencies and courts of the federal government are entitled to advise and represent their employers as part of their official duties. Such advice and representation includes both internal consultation and external representation in contact with the public and the courts. Permission for employees of the government of the District of Columbia to practice in the District is more limited. See section (c)(4).

Commentary to § 49 (c)(2):

Section (c)(2) substantially refines former section (c)(4). It is intended to provide only a

limited exception to the requirement for admission to the District of Columbia Bar for persons who practice before federal fora in circumstances where all three conditions are met.

The United States Supreme Court has held that states may not limit practice before a federal agency, or conduct incidental to that practice, where the agency maintains a registry of practitioners and regulates standards of practice with sanctions of suspension or disbarment. *Sperry v. State of Florida*, 373 U.S. 379 (1963). By contrast, a person advertising patent advice and search services who is not on the Patent Office registries of attorneys and agents is subject to the jurisdiction of the District of Columbia Court of Appeals through its Committee on the Unauthorized Practice of Law. *In re Amalgamated Development Co., Inc.*, 375 A.2d 494 (D.C. 1977). *See also Kennedy v. Bar Assoc. of Montgomery County*, 316 Md. 646, 561 A.2d 200 (1989); *In re Jones*, 163 Bankr. 665, 1994 Bankr. LEXIS 150 (D. Conn.1994); and *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 171 (2nd Cir. 1966).

As the seat of the national government, the District of Columbia is naturally the place where people locate to provide representation of persons or entities petitioning federal departments or agencies for relief. Inasmuch as such activity would often constitute the practice of law, the Supremacy Clause of the United States Constitution, case law, and comity between the District and federal governments counsel a deference to federal departments and agencies that determine to allow persons not admitted to the Bar to practice before them. At the same time, experience under this Rule has shown that some persons have abused the deference set forth in the original rule by engaging in misleading holding out or practicing law in proceedings other than those of the authorizing federal fora.

With respect to persons who hold out and purport to provide legal representation before federal fora from locations outside the District of Columbia, the Rule does not apply because the activity, even if the practice law, is not carried on within the District of Columbia. See section (b)(3) and the commentary thereto.

Section (c)(2) is designed to permit persons to practice before a federal department or agency without becoming members of the Bar, where the agency has a system in place to regulate practitioners not admitted to the Bar, and where the public is adequately informed of the limited nature of the person's authority to practice.

Where there is doubt whether a federal agency undertakes to regulate the quality or integrity of practitioners before it, there is necessarily doubt under section (c)(2)(B) whether this exception would apply to allow persons practicing before the agency who are not admitted to the Bar to engage in any practice of law in the District of Columbia. In order to resolve such doubt, the Committee will refer to an agency any complaints it should receive concerning practitioners before the agency who are not admitted to the Bar. If the agency does not take any action, or advises that it will not take any action, on the referred complaint in 90 days following the referral, the Committee will inform the agency that it presumes the agency does not undertake to regulate the conduct of practitioners before it; and the Committee will then proceed to consider the complaint under the provisions of Rule 49.

Under the third condition, (C), a person seeking to practice under the (c)(2) exception must include the indicated notice on all letterhead, business cards, formal papers of all kinds, promotions, advertisements and any other document submitted or expression made to any third party, the public or any official entity.

Experience under the Rule has indicated that, in many instances, persons seeking representation involving jurisdiction of federal departments and agencies also have rights to plead their claims before the courts. Advising persons whether they have rights to pursue their claims beyond federal agencies into the courts, or representing entities in challenges to or review of federal agency action in federal courts, would, without more, not require that the advisor be a member of the District of Columbia Bar, as such advice is reasonably ancillary to representation before the agency and is subject to the jurisdiction of the federal courts. See § 49 (c)(3). The exception set forth in (c)(2) does not, however, otherwise authorize active advice to, or representation of persons in the courts.

Commentary to § 49 (c)(3):

Practice before the courts of the United States is a matter committed to the jurisdiction and discretion of those entities. If a practitioner has an office in the District of Columbia and is admitted to practice before a federal court in the District of Columbia but is not an active member of the D.C. Bar, the practitioner may use the D.C. office to engage in the practice of law before that federal court, but only if the practitioner provides clear notice in all business documents that the practitioner is not a member of the D.C. Bar and that the practice is limited to matters before that federal court (or to other matters within the scope of other exceptions in section (c)). This exception applies only if a person's entire practice falls within section (c); if any part of the person's practice is not covered by an exception, Rule 49 requires a practitioner with an office in the District of Columbia to be an active member of the D.C. Bar. The rules of federal courts in the District of Columbia may or may not authorize admission on a regular or *pro hac vice* basis of an attorney with an office in the District of Columbia if the attorney is not a member of the D.C. Bar.

Commentary to § 49 (c)(4):

Section (c)(4) is new. It addresses the persistent question whether a person employed by the District of Columbia and admitted in another jurisdiction may perform the services of a lawyer for the District government without being admitted to the District of Columbia Bar. The section gives the person 360 days to be admitted, which is ample time if application is made promptly. Like the exception for lawyers employed by the United States, the section also requires that the person be authorized by her or his agency to perform such services.

Commentary to § 49 (c)(5):

Section (c)(5) is new. The former rule did not contain an exception for private practice before District of Columbia fora similar to the exception set forth for practice before departments

and agencies of the United States. In recognition, however, that the same considerations may exist for allowing persons not authorized as lawyers to represent members of the public before some District of Columbia fora, as exist before some federal agencies, this provision has been added. Like the federal-agency provision, this exception requires satisfaction of all three enumerated conditions.

Commentary to § 49 (c)(6):

Section (c)(6) is new. It is intended to state explicitly and clearly an accepted interpretation of the original rule.

The provision of advice, and only advice, to one's regular employer, where the employer does not reasonably expect that it is receiving advice from an authorized member of the District of Columbia Bar, and no third party is involved as client or otherwise, is considered to be the employer's provision of advice to itself; and, accordingly, it is not considered practicing law.

For example, an internal personnel manager advising her employer on the requirements of equal employment opportunity law, or a purchasing manager who drafts contracts, fall within this exception, as they do not give the employer a reasonable expectation that it is being served by an authorized member of the District of Columbia Bar. Similarly, a lawyer on the staff of a trade association who gives only advice concerning leases, personnel and contractual matters, would be covered by the exception if, in fact, the lawyer does not give the employer reason to believe she is an authorized member of the Bar.

This exception is a limited one arising from the position of the lawyer, the confinement of the lawyer's professional services to activities internal to the employer, and the absence of conduct creating a reasonable expectation that the employer is receiving the services of an authorized member of the Bar.

Commentary to § 49 (c)(7):

The District of Columbia courts are open to attorneys from other jurisdictions who have an incidental need to appear in proceedings before them.

As the Court of Appeals has observed, however:

> ... appearance pro hac vice is meant to be an exception to the general prohibition against practicing law in the District without benefit of membership in the District of Columbia Bar. As an exception, it is equally clear, that it is designed as a privilege for an out-of-state attorney who may, from time to time, be involved in a particular case that requires appearance before a court in the District.

*Brookens v. Committee on Unauthorized Practice of Law,* 538 A.2d 1120, 1124 (D.C.1988).

Super. Ct. Civ. R. 101 requires that persons seeking admission pro hac vice in the Superior Court must associate with an enrolled, active member of the District of Columbia Bar who has continuing responsibilities as associated counsel.

The fact that an attorney is associated with a law firm that maintains an office in the District of Columbia does not, of itself, establish that that attorney is maintaining an office in the District of Columbia.

Experience under the Rule has indicated that the pro hac vice exception has occasionally been abused to allow persons who regularly operate from a location within the District of Columbia or its surrounding jurisdictions to engage regularly in litigation practice before the courts of the District. Additionally, the original provision has been erroneously interpreted by some practitioners to permit regular practice of law in the District of Columbia by an attorney admitted only in another jurisdiction upon the assertion that the person is a practicing litigator who appears no more than five times per calendar year in the courts.

The original provision has been modified in order to avoid abuse while continuing to serve the original purpose of the provision, viz., to permit attorneys to appear in the District of Columbia courts incidentally or during their initial application for admission after moving into the District.

The original frequency limitation has been retained and applied to applications. A specific sworn declaration has been added for applicants for pro hac vice admission to assure full compliance with this Rule 49 and Super. Ct. Civ. R. 101 at the application stage.

The fee for admission has been increased in order more closely to approximate the value of the privilege to practice before the District of Columbia courts. The power of the courts to deny or withdraw admission is expressly set forth.

Commentary to § 49 (c)(8):

Section (c)(8) is new. It is designed to provide a one-time grace period within which attorneys admitted in other jurisdictions who come to practice law in the District of Columbia as their principal office may continue to practice law under the active supervision of a member of the District of Columbia Bar, while they promptly pursue admission to the Bar. This section is intended, conversely, to make it clear that a person admitted to the bar of another jurisdiction may not come to the District of Columbia and practice law under the supervision of a member of the Bar indefinitely while waiting for the period for admission on waiver to be satisfied.

This section does not affect the limitation of pro hac vice applications to five per calendar year, as provided in section (c)(7) above. A person practicing under this provision may not apply to appear pro hac vice in District of Columbia courts more than five times in any calendar year.

Neither this section, nor other sections of the Rule are intended to prohibit lawyers admitted and in good standing to the bars of other jurisdictions from providing professional services to their clients in the District of Columbia, where the principal offices of those lawyers are located elsewhere and their presence in the District is occasional and incidental to a practice located elsewhere.

With respect to Rules 5.1 through 5.3 of the Rules of Professional Conduct, the provisions of this rule are controlling over the conduct of a person performing the services of a lawyer where the elements of the practice of law are present, i.e., where there is a client relationship of trust or reliance, or an indication of authority or competence to practice law in the District of Columbia. This means that, where either of those elements is present, a person may not participate indefinitely in the delivery of legal services as a lawyer under the supervision of a member of the District of Columbia Bar; he or she must become a member of the Bar within the period specified in this section.

Commentary to § 49 (c)(9):

Section (c)(9) consolidates the provisions of former sections (c)(5) and (c)(7) relating to practice by attorneys for legal services organizations and the Public Defender Service. It adds a provision, on request of the United States Department of Justice, allowing government lawyers to participate in providing legal services pro bono publico. Where persons practice under this exception, they should give formal notice to the court and the parties of doing so.

A form of certificate for such notice is appended to the Rule, addressing the three alternatives under (c)(9) and adding a certificate for pro bono representation under the limited duration supervision exception of (c)(8).

In all circumstances the conduct and practice privileges of counsel are subject to the full authority of the courts in which they practice.

Commentary to § 49 (c)(9)(D):

Section ( c)(9)(D) is new. Recognizing the increased need for attorneys to serve as pro bono counsel and given the importance of access to justice, the purpose of this rule is to permit individuals who are members in good standing of the highest court of a state or territory and who are appropriately supervised by a licensed D.C. Bar member to perform pro bono work in the District of Columbia, provided the work is assigned or referred by an organization that provides pro bono legal services to the public without fee,

Commentary to § 49 (c)(10):

Section (c)(10) is new. It is intended to give express authorization to the number of individual- and group-assistance programs, services and projects that are operated under the direct approval of the courts of the District of Columbia.

Commentary to § 49 (c)(11):

Section (c)(11) consolidates the provisions of former sections (c)(6) and (c)(8) relating to practice by attorneys for corporations.

Commentary to § 49(c)(12):

Section (c)(12) is new. This exception allows lawyers to represent clients in up to five new ADR proceedings annually. This provision furthers the strong public policy favoring the efficient and expeditious resolution of disputes outside the judicial process, to the extent consistent with the broader public interest. This provision gives clients who agree to resolve their disputes through ADR proceedings an option to retain attorneys not admitted in the District of Columbia that is generally equivalent to the option provided through the *pro hac vice* exception in section (c)(7) to clients who resolve their disputes in judicial proceedings.

This new exception (c)(12) contains three important provisos, each of which is based on provisos for the *pro hac vice* exception in section (c)(7). First, the lawyer must be authorized to practice law by the highest court of a state or territory or by a foreign country, and must not be disbarred or suspended for disciplinary reasons, or have resigned with charges pending, in any jurisdiction or court. Second, the lawyer may begin to provide such services in no more than five ADR proceedings in the District of Columbia in each calendar year. An ADR proceeding would not count as a new ADR proceeding for purposes of this limit if it is ancillary to a judicial proceeding in which a lawyer is admitted pro hac vice (for example, when the court orders or encourages the parties to try to resolve the matter through ADR). Similarly, this limit of five new ADR proceedings annually would not apply so long as the lawyer's participation in an ADR proceeding in the District of Columbia is temporary and incidental to his or her practice in another jurisdiction. Third, the lawyer may not maintain a base of operations in the District or Columbia or otherwise practice here, unless the lawyer qualifies under another exception in Rule 49©.

This provision allows lawyers to represent clients in ADR proceedings that require more than incidental or temporary presence in the District. Separate from the authority granted by this exception, a lawyer may represent parties in ADR proceedings (or other matters) under section (c)(13) if the lawyer's presence in the District is incidental and temporary.

This exception relates only to lawyers who represent clients in ADR proceedings. As explained in the Commentary to Rule 49(b)(2), lawyers who serve as arbitrators, mediators, or other kinds of neutrals in ADR proceedings are not engaged in the practice of law.

Commentary to § 49(c)(13):

Section (c)(13) is new. Rule 49 is not intended to require admission to the District of Columbia Bar where an attorney with a principal office outside the District of Columbia is incidentally and temporarily required to come into the city to provide legal services to a client.

The exception requires that the lawyer's presence in the District be both incidental and temporary. Whether the lawyer's presence in the District is "incidental" to the District of Columbia and to the lawyer's authorized practice in another jurisdiction depends on a variety of factors. For example, there is no intent to prohibit a lawyer based outside the District from taking a deposition in an action pending in another forum, or closing a transaction relating to another jurisdiction, at a location in the District of Columbia, where the person performing the legal services is duly authorized to practice law in another jurisdiction and the person does not suggest to any client or other persons involved in the matter that the lawyer is licensed in the District.

Where, however, an attorney provides legal services concerning a transaction related to the District from a location within the District of Columbia, the attorney may be engaged in the practice of law in the District of Columbia because the attorney's presence is not incidental. Whether a transaction is related to the District of Columbia depends on the location of the parties, the location of the property and interests at issue, and the law to be applied. Another relevant factor is whether the lawyer not admitted to the D.C. Bar is the only lawyer for a party, or whether the lawyer is co-counsel or the lawyer's role is limited to one aspect of a transaction with respect to which a D.C. Bar member is lead counsel. For example, where a transaction concerns real estate located in the District of Columbia, a lawyer based outside the District who comes to the city to provide legal services to a client located inside or outside the District relating only to the federal tax aspects of the transaction may qualify for this exception. However, a lawyer based outside the District who comes to the city to be primary counsel to a District-based client with respect to all aspects of the real estate transaction may not qualify for this exception. Whether the lawyer who is not admitted to the D.C. Bar and whose principal office is outside the District is associated with or supervised by a member of the D.C. Bar is a relevant, but not controlling, factor in determining whether the lawyer's practice in the District is "incidental."

Section (c)(13) also requires that the lawyer's presence in the District be "temporary." There is no absolute limit on the number or length of a lawyer's visits to the District that makes the lawyer's presence "temporary." For example, a lawyer who spends several weeks or even months in the District in connection with a case that does not involve the District and that is pending in a court outside the District may be only temporarily, and incidentally, in the District for purposes of section (c)(13). If a lawyer's principal place of business is in the District, the lawyer is not practicing law in the District on a temporary basis and must be a member of the D.C. Bar unless another exception in section (c) applies.

This exception permits a person authorized to practice law in another country to practice law in the District on an incidental and temporary basis, subject to the specified conditions. Those conditions, including the requirements that a foreign lawyer be authorized to practice law in a foreign country and not be disbarred or suspended in any jurisdiction, are consistent with the requirements in Rule 46(c)(4) concerning special legal consultants that the foreign lawyer be in good standing as an attorney or counselor at law (or the equivalent of either) in the country where he or she is authorized to practice law.

The exception in section (c)(13) is separate from other exceptions in Rule 49(c), and the

specific exception controls the general exception. For example, whether or not regular appearances before federal agencies located in the District of Columbia by attorneys with their principal offices in other jurisdictions fit within this exception for temporary practice, they may qualify under the federal practice exception in section (c)(2). A lawyer with a principal office outside the District who comes to the District in connection with a pending or potential case in the District of Columbia courts must qualify for the *pro hac vice* exception in section (c)(7) regardless of whether the lawyer's practice in the District is otherwise temporary and incidental.

A lawyer whose principal office is outside the District of Columbia and who provides pro bono services in the District of Columbia on an incidental and temporary basis under Rule 49(c)(13) is not required to comply with the application, supervision, and notice requirements of the exception in Rule 49(c)(9)(B) for provision of pro bono services. The (c)(9)(B) exception facilitates the provision of pro bono services by lawyers whose principal office is in the District of Columbia and who qualify for another exception to Rule 49, such as the exception in Rule 49(c)(2) for certain U.S. government practitioners. Consistent with its purpose to encourage the provision of pro bono services, the exception in Rule 49(c)(9) does not impose additional obligations on lawyers who are permitted under another exception to provide pro bono services in the District of Columbia. In particular, unlike lawyers who are authorized to provide pro bono services only under the (c)(9) exception, lawyers who provide pro bono services under the (c)(13) exception are not required to apply for admission to the D.C. Bar, to be supervised by a D.C. Bar member, or to provide notice of their bar status. Clients who obtain services on a pro bono basis from lawyers practicing under the (c)(13) exception are protected to the same extent as clients who pay lawyers a fee to provide services under the (c)(13) exception.

Commentary to § 49 (d):

Section (d) sets forth the mandate, powers and procedures of the Committee on Unauthorized Practice of Law. The United States Court of Appeals for the District of Columbia Circuit has observed:

> The Committee members' work is functionally comparable to the work of judges.... They serve as an arm of the court and perform a function which traditionally belongs to the judiciary.
>
> ... the Committee acts as a surrogate for those who sit on the bench. Indeed, were it not for the Committee, judges themselves might be forced to engage in the sort of inquiries [authorized by Rule 49].

*Simons v. Bellinger*, 643 F.2d 774, 780-81 (D.C. Cir. 1980).

The provisions of section (d) retain virtually all of the language of the original rule concerning establishment of the Committee and its rules of procedure. Section (d)(3)(G) adds specific authority for the Committee to issue opinions to facilitate understanding and enforcement of the rule.

It is expected that most matters considered by the Committee will be resolved within its informal and formal proceedings.

Commentary to § 49 (e):

Section (e) is new. It clarifies the procedures and effect of proceedings commenced by the Committee, and sets forth expressly the relief available in the Court of Appeals in formal proceedings initiated by the Committee, and the method for appealing a decision of the designated hearing judge.

The powers and procedures provided in sections (d) and (e) are not the exclusive means for enforcing the provisions of this Rule. Disciplinary Counsel may initiate an original proceeding before the Court of Appeals for contempt where it alleges that the respondent has violated Rule 49 by practicing law while disbarred; *In re Burton*, 614 A.2d 46 (D.C. 1992); and it may rely on unauthorized law practice in opposing reinstatement of an attorney suspended from the Bar; *Matter of Stanton*, 532 A.2d 95 (D.C. 1987). The courts of the District of Columbia have subject matter jurisdiction to consider original complaints of unauthorized practice of law initiated by private parties, and to issue relief if such practice is found. *J.H. Marshall & Assoc., Inc. v. Burleson*, 313 A.2d 587 (D.C. 1973).

**Rule 50. Judicial Conference of the District of Columbia.**

**(a) Purpose.** In accordance with D.C. Code § 11-744 (2001), there will be held annually, at a time and place designated by the Chief Judge of this court, a conference of all the active judges of this court and the active judges of the Superior Court of the District of Columbia, for the purpose of considering the state of business of the courts and advising ways and means of improving the administration of justice within the District of Columbia. It will be the duty of each judge summoned to attend the conference and, unless excused by the Chief Judge of this court, to remain throughout the conference. The conference will be called the Judicial Conference of the District of Columbia.

**(b) Composition**. In addition to the active judges of this court and the active judges and magistrate judges of the Superior Court of the District of Columbia, invited participants of the conference who will have voting privileges consist of the following:

**(1)** The retired judges of this court and of the Superior Court.

**(2)** The Clerks of this court and of the Superior Court.

**(3)** The Executive Officer of the District of Columbia Courts.

**(4)** The United States Attorney for the District of Columbia.

**(5)** The Corporation Counsel for the District of Columbia.

**(6)** The deans of local law schools (ABA approved).

**(7)** The President and President-Elect of the District of Columbia Bar.

**(8)** The Presidents and Presidents-Elect of the voluntary bar associations of the District of Columbia.

**(9)** Members of the Bar of the court and representatives of the District of Columbia administration of justice system in such numbers as will promote the purpose of this rule as defined in section (a). Selection of the members pursuant to this subsection will be subject to the approval of this court.

**(10)** The following officials will be invited annually as guests of the Conference:

**(i)** The Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and of the United States District Court for the District of Columbia.

**(ii)** The Clerks of the United States Court of Appeals for the District of Columbia Circuit and of the United States District Court for the District of Columbia.

**(iii)** The Circuit Executive of the District of Columbia Circuit.

**(c) Pre-conference Arrangements.** The Chief Judge of this court will appoint a Committee on Arrangements for the Conference consisting of at least one active judge of this court and one active judge of the Superior Court and one member of the Bar. The Committee must:

**(1)** Prepare and submit for the approval of the Board of Judges of this court a plan for the conference to include:

**(i)** Location.

**(ii)** Program of professional matters to be covered during the Conference.

**(iii)** Coordination of arrangements in instances where the Judicial Conference is to be held jointly with a Bar activity.

**(2)** Carry out such other tasks relative to the Conference as may be assigned by the Chief Judge of this court.

**(d) Conference Procedures.**

**(1)** The Chief Judge of this court will preside at the meetings of the Judicial Conference and the meetings will be conducted in accordance with Robert's Rules of Order.

**(2)** The Chief Judge of this court may appoint such committees as may be appropriate, including those committees authorized by the Conference or determined by the Chief Judge to be necessary to implement its actions, and may fill vacancies in or reconstitute such committees.

**(3)** The Clerk of this court will serve as Secretary to the Conference and must make and preserve an accurate record of its proceedings.

## SCHEDULE OF FEES AND COSTS

| | | |
|---|---|---|
| (a) | Filing notice of appeal in trial court. . . . . | $100 |
| (b) | Filing application for allowance of appeal, small claims and criminal (less than $50 penalty).. . . . . | 10 |
| | If granted, docketing fee . . . . . | 40 |
| (c) | Filing petition for review . . . . . | 100 |
| (d) | For filing original applications or petitions . . . . . ... . . . . | 100 |
| (e) | For each photocopy supplied by the Clerk, per page. . . . . | .50 |
| (f) | For a copy of each slip opinion of this Court. . . . . | 2 |
| (g) | Filing application for interlocutory appeal. . . . . | 100 |
| (h) | Preparing record for Supreme Court including certificate and seal . . . . . | 20 |
| (I) | For affixing a certificate and seal to any paper.. . . . . | 5 |
| (j) | For certificate of good standing (D.C. Form).. . . . . | 5 |
| (k) | For certificate of good standing (Out of State Form). . . . . | 10 |
| (l) | For engraved certificate evidencing admission to the Bar. . . . . | 40 |

# APPENDIX OF FORMS

**Form 1. Notice of Appeal (Tax, Civil, Family (Except Juvenile Cases), and Probate).**

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**
**NOTICE OF APPEAL (_____CROSS APPEAL)**
**TAX, CIVIL, FAMILY (EXCEPT JUVENILE CASES) , AND PROBATE**

Superior Court Case Caption: _____

Superior Court Case No.:_____

**A.** Notice is given that (person appealing)_____ is appealing an order/judgment from the:

☐ Tax Division ☐ Civil Division ☐Family Court ☐Probate Division

1. Date of entry of judgment or order appealed from (if more than one judgment or order appealed, list all):

_____

2. Filing date of any post-judgment motion: _____

3. Date of entry of post-judgment order:_____

4. Superior Court Judge: _____

5. Is the order final (*i.e.*, disposes of all claims and has been entered by a Superior Court Judge, not a Magistrate Judge)? ☐ YES ☐ NO

If no, state the basis for jurisdiction: _____

Has there been any other notice of appeal filed in this case: ☐YES ☐NO

If so, list the other appeal numbers:_____

6. If this case was consolidated with another case in this court, list the parties' names and the Superior Court case number:

_____

**B.** Type of Case: ☐Civil I ☐Civil II ☐Landlord and Tenant
☐Neglect ☐TPR ☐Adoption ☐Guardianship
☐Mental Health ☐Probate ☐Intervention

**C.** Indicate Status of Case: ☐Paid ☐In Forma Pauperis ☐CCAN

Was counsel appointed in the trial court? ☐YES ☐NO

**D.** Provide the names, addresses, and telephone numbers of all parties to be served. For persons represented by counsel, identify counsel and whom the counsel represents. For each person, state whether the person was a plaintiff or defendant in the Superior Court (use additional sheets of paper if necessary):

| **NAME** | **ADDRESS** | **PARTY STATUS (Plaintiff, Defendant)** | **TELEPHONE NOS.** |
|---|---|---|---|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

**E.** Identify the portions of the transcript needed for appeal, including the date of the proceeding, the name of the Court Reporter (or state that the matter was recorded on tape if no Court Reporter was present), the courtroom where the proceeding was held, and the date the transcript was ordered, or a motion was filed for preparation of the transcript.* Attach additional pages if needed.

| **Date of Proceeding/Portion** | **Reporter/Courtroom** | **Date ordered** |
|---|---|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

☐ **Check this box if no transcript is needed for this appeal.**

**F.** Person filing appeal: ☐Plaintiff Pro Se ☐ Defendant Pro Se
☐Third Party/Intervenor ☐ Counsel for Plaintiff
☐Counsel for Defendant

**ATTACH A COPY OF THE ORDER, JUDGMENT OR DOCKET ENTRY FROM WHICH THIS APPEAL IS TAKEN**

_____ _____ _____

* Appellant is responsible for ordering transcript(s) from the Court Reporting and Central Recording Division, Room 5500. If appellant has been granted In Forma Pauperis status, or had an attorney appointed by the Family Court, *and* transcript is needed for this appeal, appellant must file a Motion for Transcript in the Appeals Coordinator's Office, Room 3148. That office number is (202) 879-1731. If that motion is granted, transcript will be prepared at no cost to appellant.

Print Name of Appellant/Attorney | Signature | Bar No.

_____ _____

Address | Telephone Number

**Form 2. Notice of Appeal (Criminal Division and Family Court/Juvenile Branch).**

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**
**NOTICE OF APPEAL**
**CRIMINAL DIVISION AND FAMILY COURT (JUVENILE CASES ONLY)**

Superior Court Case Caption:_____

Superior Court Case No.: _____

**Appoint new counsel:** _____ **Yes** (If trial counsel seeks appointment for the appeal, counsel must be on the Court of Appeals CJA list and file the required certification.)

**A.** Notice is given that (person appealing)_____ is appealing an order/judgment from the
Criminal Division_____ (or) Family Court/Juvenile and Neglect Branch_____

{Please check one} ☐Juvenile ☐Felony ☐Misdemeanor
☐Traffic ☐D.C. Case ☐Special Proceedings
☐Drug Court ☐Domestic Violence

Date of entry of judgment or order appealed from (if more than one judgment or order is being appealed, list all): _____

Superior Court Judge:_____

Description of judgment or order:_____

Most serious offense at conviction:_____

Has there been any other notice of appeal filed in this case? ☐YES ☐NO

If so, list the other appeal numbers: _____

List any co-defendants and their Superior Court case number(s): _____

**B.** Jury trial_____ Bench trial_____ Other_____

**C.** Is the defendant currently confined? ☐YES ☐NO Defendant's DCDC #_____

or

Fed#_____

Defendant's current address: _____

Was the defendant determined eligible for court-appointed (*i.e.* CJA) counsel:

☐YES ☐NO

**D.** Identify the portions of the transcript needed for appeal, including the date of the proceeding, the name of the Court Reporter (or an indication that the matter was recorded on tape if no Court Reporter was present), the courtroom where the proceeding was held, and the date the transcript was ordered (if the defendant was not determined to be eligible for court-appointed counsel), or when a motion was filed for preparation of the transcript.* Attach additional pages if needed.

| **Date of Proceeding/Portion** | **Reporter/Courtroom** | **Date ordered** |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

☐ **Check this box if no transcript is needed for this appeal.**

**E.** Provide the names and addresses of all parties and counsel to be served:

For Defendant/Respondent: _____

_____

_____

For Government: _____

_____

_____

**F.** Person filing appeal: ☐Counsel for Government ☐Defendant Pro Se

☐Counsel for Defendant/Respondent

**ATTACH A COPY OF THE ORDER, JUDGMENT OR DOCKET ENTRY FROM WHICH THIS APPEAL IS TAKEN**

_____ _____ _____

Print Name of Appellant/Attorney Signature Bar No.

_____ _____

_____ _____

Address Telephone Number

* Retained trial counsel must assist appellant in filing for In Forma Pauperis status or ensure that the Criminal Justice Act eligibility procedure has been conducted in the Superior Court (including Family Court), in order for transcript to be prepared at the government's expense. For further information, contact the Appeals Coordinator's Office at (202) 879-1731 or come to Room 3148.

**Form 3. Application for Allowance of Appeal from the Small Claims and Conciliation Branch of the Civil Division.**

**DISTRICT OF COLUMBIA COURT OF APPEALS**

_____
Applicant

_____
_____ No._____
(Address)

v.

_____
Respondent

_____
_____
(Address)

**APPLICATION FOR ALLOWANCE OF APPEAL
FROM THE SMALL CLAIMS AND CONCILIATION BRANCH
OF THE CIVIL DIVISION OF THE
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

1. Applicant was the ☐plaintiff (or) ☐defendant in the case below and seeks to appeal the decision (ruling) entered on the _____ day of _____ 20___, in the Small Claims Branch in case number _____. The case below was captioned:
_____
_____

2. The decision was made by a: ☐ Judge ☐Jury

3. The name of the trial judge. Please note that you may only seek review in this court of a final decision of a judge; if the decision was made by a magistrate judge you must first file for review by a judge in the Small Claims Division._____

4. Description of case filed below (indicate the amount of judgment and why the lawsuit was filed):_____
_____
_____
__

_____

5. The ruling made by the judge:_____
_____
_____
_____
___

6. State why the Court of Appeals should accept this application. Specifically, state how the trial court erred in making its decision or what important issue the application raises that the Court of Appeals has not yet decided but should decide. State these points as simply and specifically as possible and include facts and evidence necessary for the court to consider them. Attach additional pages if necessary:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____
Applicant/Attorney (all but natural persons representing themselves must be represented by counsel)

_____
_____
_____
Address

_____
Telephone Number

**CERTIFICATE OF SERVICE**

I hereby certify that I have mailed a copy of this application, postage prepaid, to _____ this _____ day of _____, 20____.

_____
Applicant/Attorney

**Form 4. Application for Allowance of Appeal from the Criminal Division.**

**DISTRICT OF COLUMBIA COURT OF APPEALS**

_____
Applicant

_____
_____ No._____
(Address)

v.

_____
Respondent

_____
_____
(Address)

**APPLICATION FOR ALLOWANCE OF APPEAL**
**FROM THE CRIMINAL DIVISION OF THE**
**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**
(For use only where penalty is less that $50)

1. Applicant, being aggrieved by the judgment (order or sentence) entered on the _____ day of _____ 20___, in the Criminal Division of the Superior Court, case number _____, hereby applies for allowance of appeal from the District of Columbia Court of Appeals.

2. The offense charged is _____. Attach a copy of the information. A separate application must be filed for each charge.

3. The name of the trial judge. Please note that you may only seek review in this court of a final decision of a judge; if the decision was made by a magistrate judge, you must first file for review by a judge in the Criminal Division._____

4. The applicant was found guilty and the penalty imposed was: _____
_____
_____

5. State why the Court of Appeals should accept this application. Specifically, state how the trial court erred in making its decision or what important issue the application raises

that the Court of Appeals has not yet decided but should decide. State these points as simply and specifically as possible and include facts and evidence necessary for the court to consider them. Attach additional pages if necessary:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____
Applicant/Attorney

_____
_____
_____
___
Address

_____
Telephone Number

**CERTIFICATE OF SERVICE**

I hereby certify that I have mailed a copy of this application, postage prepaid, to

_____
_____

this _____ day of _____, 20____.

_____
Applicant/Attorney

**Form 5. Petition for Review.**

**DISTRICT OF COLUMBIA COURT OF APPEALS**
**PETITION FOR REVIEW**

Appeal No._____

_____,
Petitioner

v.

_____
Agency No.

_____,
Respondent (Agency)

I, _____, seek review by the District of Columbia Court of Appeals of the decision or order of _____(agency) entered on the _____ day of _____, 20____.

Names, addresses, and telephone numbers of all other parties and their counsel who appeared in the agency (use additional pages if necessary):

_____
_____
_____
_____
_____
_____
_____
_____

_____
Signature of Petitioner or Attorney
(all but natural persons representing themselves must be represented by counsel)

_____
Printed Name of Petitioner or Attorney

_____
Address

_____
Telephone Number

**NOTE: ATTACH A COPY OF THE DECISION/ORDER ISSUED BY THE DISTRICT OF COLUMBIA AGENCY FROM WHICH THE PETITION IS TAKEN.**

**Form 6. Information to Accompany Request for Relief from an Order of Detention (Rule 9).**

Any request for relief from an order of detention under Rule 9 must be accompanied by a statement of counsel containing the following information regarding the person detained:

1. Name (including all aliases) and date and place of birth of the applicant;

2. Marital status of the applicant, the number and ages of children, and the extent to which each child is dependent upon the applicant for support (indicate date of each child's birth);

3. Health of the applicant, including any history of major physical or mental illness or of narcotics addiction, and any history of treatment for these disorders (indicate dates);

4. Present residence and length of residence of the applicant in the District of Columbia area, and previous places of residence within the last 5 years (indicate dates);

5. The names and addresses of relatives or other persons who might assist with regard to posting of bail, taking the applicant into custody, or providing financial support;

6. Present financial ability and means of support of the applicant, past, present, and prospective, including history of employment over the past 5 years (indicate dates, the nature of employment, and the names and addresses of employers);

7. Prior criminal record of the applicant, including all previous arrests, convictions, admissions to bail, releases on other conditions, probations, and paroles (indicate the nature of the offenses, the amounts of bail or conditions of release, any forfeitures of bail or revocations of release, parole, or probation, the final disposition of the cases, the names of the courts involved, and the relevant dates);

8. The nature of the offense or offenses presently charged or for which the applicant has just been convicted, or other basis for his or her present release or detention, such as narcotics addiction or classification as a material witness. Indicate the present status of the case including the dates of arrest, trial, and conviction, the expected completion date of the official transcript, and any other relevant dates;

9. The sentence, if any, which the applicant has received (indicate date);

10. The nature of the appeal (indicate whether the appeal is in forma pauperis and whether

counsel has been appointed);

11. Where the applicant has been charged with, but not yet convicted of, an offense punishable by imprisonment, the reasons why in the applicant's view one or more conditions of release will reasonably assure that he or she will not flee or pose a danger to any other person or the community;

12. Where the applicant has been convicted of any offense, the reasons why he or she is not likely to flee or pose a danger to any other person or to the property of others;

13. Where the applicant has been convicted and sentenced, and has appealed, the reasons why the appeal raises a substantial question of law or fact likely to result in a reversal or an order for a new trial; and

14. Any other pertinent information, arguments, or assurances.

**Form 7a. Motion for Waiver of Prepayment of Court Fees and Costs.**

**DISTRICT OF COLUMBIA COURT OF APPEALS**

_____ ,
Appellant

v. Appeal No. _____

_____,
Appellee.

**MOTION FOR WAIVER OF PREPAYMENT OF COURT FEES AND COSTS (IN FORMA PAUPERIS)**

1. ☐ I am not able to pay any of the court fees and costs
   ☐ I am able to pay only the following court fees and costs (specify):

2. My current street or mailing address is:

3. My occupation, employer, and employer's address are (specify):

4. My spouse's occupation, employer, and employer's address are (specify):

5. ☐ No, I am not receiving financial assistance.
   ☐ Yes, I am receiving financial assistance under one or more of the following programs:
   ___ SSI (Social Security Supplemental Income)
   ___ General Assistance for Children
   ___ AFDC (Aide to Families with Dependent Children)
   ___ Medical Assistance

If you checked Yes on box 5, you must attach documents to verify receipt of the benefits; you may then skip item 6 and sign at the bottom of this form.

6. ☐ My income and available assets are not enough to pay for the common necessaries of life for me and the people in my family whom I support, and also to pay court fees and costs. [If you check this box, you must complete the attached Financial Statement, Form 7b.]

**Warning: You must immediately tell the court if you become able to pay court fees or costs during this action.**

I declare under penalty of perjury that the information on this form and all attachments is true and correct:

Date:

_____ _____

(Type or print name) (Signature)

**Form 7b. Financial Information Statement.**

**DISTRICT OF COLUMBIA COURT OF APPEALS**

**Financial Information Statement**
**(In Forma Pauperis)**

Applicant's Name _____ Case No. _____

---

1. **MY MONTHLY INCOME**

(If your pay changes considerably from month to month, each of the amounts reported in item 1 should be your average for the past 12 months.)

a. My gross monthly pay is:..... $_____

b. My payroll deductions are (specify purpose and amount):

(1) $ _____
(2) $ _____
(3) $ _____
(4) $ _____

My TOTAL payroll deduction amount is: ..... $ _____

c. My monthly take-home pay is (a. minus b.):..... $ _____

d. Other money I get each month is: (specify source and amount, include spousal support, child support, scholarships, retirement or pensions, social security, disability, unemployment, veterans payments, dividends, and net rental income)

(1) $ _____
(2) $ _____
(3) $ _____

The total amount of other money is: ..... $_____

e. MY TOTAL MONTHLY INCOME IS (c. plus d.): ..... $ _____

2. **PERSONS LIVING IN MY HOME**.

Number of persons living in my home: _____

Below list all persons living in your home, including your spouse, who depend in whole or in part on you for support or on whom you depend in whole or in part for support:

| Name | Age | Relationship | Gross Monthly Income |
|---|---|---|---|
| 1 | | | $ |
| 2. | | | $ |
| 3. | | | $ |
| 4. | | | $ |
| 5. | | | $ |

The TOTAL amount of income from others living in my home is..... $ _____

3. **PROPERTY**. I own or have an interest in the following property:

a. Cash: $
b. Bank accounts: $
c. Cars: $
d. Stocks $
e. Real estate (identify each property and note the fair market value and any loan balance):

f. Other personal property (describe below): $

4. **MY MONTHLY EXPENSES.** My monthly expenses are the following:

a. Rent/house payment & maintenance..... $
b. Food & household supplies..... $
c. Utilities and telephone..... $
d. Clothing..... $
e. Laundry and cleaning..... $
f. Medical/dental payments..... $
g. Insurance (life, health, accident)..... $
h. School and child care required for employment..... $
I. Court-ordered child or spousal support..... $
j Transportation and auto expenses (insurance, gas, repair)..... $

k. Installment payments (specify purpose and amount)

(1) $
(2) $
(3) $

l. Amounts deducted due to wage assignments and earnings earnings withholding orders:..... $

m. Other expenses (specify):
(1) $
(2) $
(3) $

n. My Total monthly expenses are (add a. through m.) $

5. Other facts that support this application are (describe unusual medical needs, expenses for recent family emergencies, or other unusual circumstances or expenses to help the court understand your budget; if more space is needed, attach a page labeled Attachment 5):

**Form 8. Application for Admission Pro Hac Vice.**

DISTRICT OF COLUMBIA
COURT OF APPEALS

[or]

SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA

| | | |
|---|---|---|
| _____, | ) | |
| Plaintiff/Appellant, | ) | APPLICATION FOR ADMISSION |
| | ) | PRO HAC VICE |
| v. | ) | |
| | ) | |
| _____, | ) | |
| Defendant/Appellee. | ) | |
| _____ | ) | |

I declare under penalty of perjury:

(1) That I have not applied for admission pro hac vice in more than five cases in courts of the District of Columbia this calendar year;

(2) That I am a member in good standing of the highest court(s) of the State(s) of _____;
(state all states)

(3) That there are no disciplinary complaints pending against me for violation of the rules of the courts of those states;

(4) That I have not been suspended or disbarred for disciplinary reasons from practice in any court;

(5) That I am associated with _____
_____
_____
(name the D.C. Bar member under Super. Ct. Civ. R. 101; and give his/her D.C. Bar Number)

(6) That I do not practice or hold out to practice law in the District of Columbia; and

(7) That I have read all of the rules of the relevant division of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals, and have complied fully with District of Columbia Court of Appeals Rule 49 and, as applicable, Super. Ct. Civ. R. 101. The reason(s) I am applying for admission pro hac vice are as follows:

_____
_____
_____
_____
_____
_____

I acknowledge the jurisdiction of the courts of the District of Columbia over my professional conduct, and I agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted pro hac vice. I have applied for admission pro hac vice in the courts of the District of Columbia _____ times previously in this calendar year.

I attach hereto the receipt issued by the District of Columbia Court of Appeals Committee on the Unauthorized Practice of law as proof of my prior payment of the pro hac vice fee.

_____ _____
Signature Print Name

_____
Date

**Form 9. Certification of Practice Pro Bono Publico.**

DISTRICT OF COLUMBIA
COURT OF APPEALS

[or]

SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA

| | | |
|---|---|---|
| _____, Plaintiff/Appellant, | ) | CERTIFICATION OF PRACTICE PRO BONO PUBLICO |
| v. | ) | |
| _____, Defendant/Appellee. | ) | |

I certify under District of Columbia Court of Appeals Rules 49 (c)(8) and 49 (c)(9):

1. That I am a member in good standing of the bar(s) of

_____
_____
_____
_____

2. That:

[_____] (a) Under Rule 49 (c)(9)(A), I am employed by or affiliated with a legal services or referral program and I am providing representation in this case without compensation; or

[_____] (b) Under Rule 49 (c)(9)(B), I am employed by or affiliated with the Public Defender Service, or a non-profit organization located in the District of Columbia proving services without fee or for a nominal processing fee; I submitted an application for admission to the District of Columbia Bar within ninety (90) days of commencing the practice of law in the District of Columbia; and I am practicing for a limited period under the supervision of an enrolled, active member of the D.C. Bar who is employed by or affiliated with the Public Defender Service or the non-profit organization; or

[_____] (c) Under Rule 49 (c)(9)(C), I am an officer or employee of the United States government, a member in good standing of the bars named above, and affiliated with an organization proving legal services without fee; and I am supervised by an enrolled, active member of the D.C. Bar who is employed by or affiliated with that organization; or

[_____] (d) Under Rule 49 (c)(8), I am practicing for a limited period from my principal office within the District of Columbia under the direct supervision of an enrolled, active member of the District of Columbia Bar, whose signature and Bar number appear below.

I understand, under Rule 49 (c)(9), that I am subject to the District of Columbia Rules of Professional Conduct and the enforcement procedures applicable thereto to the same extent as if I were an enrolled, active member of the District of Columbia Bar. I further understand that my conduct is subject to all authority of the courts in which I practice.

_____

Signature of Certifier Print Name Date

_____

Signature of Bar Member under Rule 49 (c)(8) Print Name Bar Number