

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

O R D E R-

By action of the Board of Judges of this Court and pursuant to D.C. Code § 11-946, it is this 15th day of February, 2006:

ORDERED that Superior Court Rule of Civil Procedure 81 is amended as set forth below; and it is

FURTHER ORDERED that Superior Court Rule for the Small Claims Branch 8 is amended as set forth below; and it is

FURTHER ORDERED that Superior Court Rule of the Probate Division 313 is promulgated as set forth below; and it is

FURTHER ORDERED that the above-enumerated rules shall take effect March 20, 2006 and govern all proceeding thereafter commenced and insofar is just and practicable all pending proceedings.

SCR CIVIL 81

APPLICABILITY IN GENERAL

(a)

(2) These Rules are applicable to proceedings for habeas corpus, and quo warranto, to the extent that the practice in such proceedings is not set forth in applicable statutes or the rules governing proceedings under D.C. Code § 23-110 and has heretofore conformed to the practice in civil actions. The writ of habeas corpus or order to show cause shall be directed to the person having custody of the person detained. ~~It shall be returned within 3 days unless for good cause shown the Court shortens the time or allows additional time, which shall not exceed 20 days.~~

* * *

SCR SC 8

CERTIFICATION TO CIVIL DIVISION

With the approval of the Presiding Judge of the Civil Division, and ~~w~~when the interest of justice seem to require, the Court may certify any action brought in this Branch to the Civil Actions Branch of the Civil Division of the Court for further proceedings in that Branch. Any action so certified shall be subject in all respects to the Superior Court Rules of Civil Procedures.

SCR PROBATE 313

RULE TO SHOW CAUSE FOR RECOVERY OF POSSESSION OF PROPERTY

(1) *Petition for Rule to Show Cause.* When it is believed that any person is in possession of assets, papers, data or information of or about the subject's or ward's income, property, or estate, and is wrongly withholding the same, a petition may be filed for a Rule to Show Cause, directing such person to appear and show cause why such person should not (i) disclose all of the assets, papers, data and information of or about the subject or ward in such person's possession, (ii) disclose the location of the same and/or (iii) be required by the Court to turn over all of the same to the conservator or guardian of the subject or ward, or to provide access to same or take such other action as ordered by the Court.

(b) *Content of the Petition.* In addition to any other information required to be submitted to the Court under this Rule, the petition shall set forth with particularity the following facts, points and authorities:

(1) a concise description of the assets, papers, data, or other information concerning the subject's or ward's income, property, or estate that is alleged to be wrongfully withheld by the individual named in the petition; (2) the name, address, telephone number and any other pertinent identifying information about the individual whose actions are to be subject to the order to show cause; (3) a statement of the jurisdiction of the Superior Court over the subject matter and such person; (4) the facts and law that would establish the right of the estate to demand production of the asset, paper, data or other information (including but not limited to its alleged connection to the assets of the estate or its relevance to the administration of the estate); (5) a concise demand for relief, such as production of a particular asset or data, reimbursement of monies to the estate, or other specific relief; (6) if the petitioner is not the conservator, guardian, ward or subject, the factual basis for the petitioner's standing to seek this relief; and (7) any other information

that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s), if any, why any of the foregoing information is not supplied. The Petition shall also contain a Certificate of Service certifying that a copy has been served upon the Respondent and all parties by regular first-class mail.

(c) *Certificate of Good Faith Effort of Petitioner.* The Petition for Rule to Show Cause shall contain a Certificate of Good Faith Effort of Petitioner certifying that despite a good faith effort, the petitioner has been unable to obtain the assets, papers, data and information sought. The certification shall set forth specific facts describing the good faith effort.

(d) *Who may petition the Court.* The conservator, guardian or the subject or ward may file a petition hereunder. Any party or person who has been granted permission to participate under SCR PD 303(b) may also file a petition hereunder.

(e) *Form of Order.* The hearing date shall be set not less than twenty-eight (28) days after the date of the Order. The Court may grant the Petition by executing an Order for Rule to Show Cause substantially in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

In Re: Intervention No.

ORDER FOR RULE TO SHOW CAUSE

Upon consideration of the Petition of herein, filed the day of,, it is on this day of,,

ORDERED, that, appear in this Court at A.M. in Courtroom No., on the day of,, and show cause, if any there be, why he/she/it should not provide access to the following described property or should not disclose or reveal the location of the following described assets, papers, data and information he/she/it has in his/her/its possession belonging to (the subject or ward) and why he/she/it should not be required by this Court to turn over the following assets,

papers, data and other information to the petitioner, to wit: (concise description of specific assets, papers, data and other information) or take such other action as ordered by the Court, PROVIDED, however, that a copy of said Petition and this Order be served upon him/her/it by petitioner on or before the day of, .., in accordance with SCR-Civil 4(c) and an affidavit proving said service be filed herein no later than the time set for hearing, and it is further

ORDERED that if fails to appear on the date set in this Order, the Court may grant the relief requested in the petition without further notice.

.....
JUDGE

Copies to:

Petitioner
(Address)

Respondent
(Address)

Subject or Ward
(Address)

Parties and Interested Persons
(Address)

(f) *Service of the Order to Show Cause.* Upon the issuance of an order to show cause, service of a copy of that order and a copy of the petition shall be made as follows: (1) Service upon the person allegedly in possession of the sought material shall be made in the manner prescribed by SCR-Civil 4(c). (2) All other parties, interested persons and the subject or ward shall be served as provided in Superior Court Probate Rule 311.

(g) *Proof of service.* Proof of service of the Order for Rule to Show Cause and a copy of the petition shall be by affidavit filed no later than the time set for its filing by the Order for cause to be shown.

(h) *Response to Petition to Show Cause.* The person on whom the Petition to Show Cause is served shall file a responsive pleading to the Petition within ten (10) days.

(i) *Plea of Title.* If the responsive pleading asserts a plea of title, the Court shall treat the Petition for Rule to Show Cause as a complaint, provided the petitioner pays the complaint filing fee within ten (10) days of the Court order directing that the petition be treated as a complaint. The petition shall be dismissed if the fee is not paid.

(j) Expedited procedures; *Waiver of Notice to Respondent.* Upon a request by the Petitioner for waiver of notice to the Respondent, and upon a finding by the Court that good cause exists for the waiver of notice, the Court may issue the Order to Show Cause without waiting for a response to the Petition. Upon the issuance of the Order to Show Cause, a respondent who has not already responded to the Petition, may file a responsive pleading at any time, up to the date therein specified for cause to be shown. The hearing date may be set less than twenty-eight (28) days after the date of the Order if the petitioner, for good cause shown, requests.

(k) *Status Hearing.* If a complaint filing fee has been paid, the Court may hold a status conference on the date set for cause to be shown, or such later date as the Court may direct, and enter such other orders as are just therein pertaining to the petitioner, respondent and such other parties and interested persons as deemed necessary by the Court. Superior Court Civil Rule 16 shall be applicable to actions covered by this Rule in which a complaint filing fee has been paid.

Comment: This rule is based upon DC Code §21-2055 and §21-2062. This rule, like its counterparts, Rules 113 and 413, encompasses real property.

By the Court:

Date: February 15, 2006

/s/ Rufus G. King, III
Rufus G. King, III
Chief Judge

Copies to:

All Judges
All Magistrate Judges
Director of the Civil Division
Chief of the Small Claims Branch
Director of the Probate Division
David Luria, Attorney Advisor