

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 25th day of August, 2005:

ORDERED that Superior Court Rules of Civil Procedure 5, 5-I, 10-I, 11, 12-I, 16, 40-II, 40-III, 58, 77, 79, 79-I, 81, 83 and 101 are amended as set forth below; and it is

FURTHER ORDERED that the above-enumerated rules shall take effect September 30, 2005 and govern all proceedings hereinafter commenced and insofar as just and practicable, all pending proceedings.

**SCR-CIVIL 5**

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

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(d) Filing. All ~~papers~~ filings after the complaint required to be served upon a party, other than those referred to in Rule 12-I(e), shall be filed with the court either before service or within 5 days after service; however, the clerk shall not accept for filing depositions transcripts, interrogatories, requests for documents, requests for admission, and responses thereto except as set forth in the last sentence of this paragraph. The party serving such a discovery paper or noticing a deposition must, however, file with the Court a CERTIFICATE REGARDING DISCOVERY which shall indicate the title of the discovery paper served and the date on which it was served. The requesting party must retain the original discovery paper, and must also retain personally, or make arrangements for the reporter to retain, in their original and unaltered form, any deposition transcripts which have been made at the party's request. Such discovery papers and deposition transcripts must be retained until the case is concluded in this Court, the time for noting an appeal or petitioning for a writ of certiorari has expired, and any such appeal or petition has been decided. Discovery papers and deposition transcripts may be filed, without leave of court, if they are appended to a motion or opposition to which they are relevant and may otherwise be filed if so ordered by the Court sua sponte or pursuant to motion.

(e) Filing with the Court defined.

(1) The filing of papers with the Court as required by these Rules shall be made by filing them with the Clerk of the Court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the Office of the Clerk. On the date of the filing of any motion, or of any papers related to a motion (i.e., an opposition to a motion, memorandum of points and authorities, exhibits related thereto or proposed order), the party filing such motion, papers or pretrial statements and other papers described in SCR Civil 16(d) and (e) shall deliver a chambers copy thereof to a depository designated by the Clerk of the Court for receipt of such papers by the assigned judge. Along with the chambers copy of the motion, the moving party must provide the assigned judge with (1) an original proposed order and (2) an addressed envelope or a mailing label for each counsel or unrepresented party to the case. With the chambers copy of any opposition to a motion, the party filing the opposition must provide the assigned judge with an original proposed order. If the original document has been mailed, the chambers copy may be mailed to chambers. No other papers shall be delivered to the judge's chambers unless the assigned judge so orders.

(2) Filing Electronically.

(A) Electronic Filing. As permitted or required by statute, rule or administrative order, pleadings and filings may be filed by electronic means. Filing by electronic means is complete upon transmission, unless the party making the transmission learns that the attempted transmission was undelivered or undeliverable.

(B) Form of Documents Electronically Filed.

(i) Format of Electronically Filed Documents. All filings submitted electronically shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper filings, and in such other and further format as the Court may require from time to time.

(ii) Representations by Using a Typographical Signature. Every document filed electronically shall be deemed to have been signed by the attorney or declarant and shall bear a facsimile or typographical signature of such person, along with the typed name, address, telephone number, e-mail address and Bar number of a signing attorney. Typographical signatures shall be treated as personal signatures for all purposes under ~~the~~ Sup. Ct. Civil these rules. Typographical signature means the typed or imaged signature of each lawyer or party who is responsible for the filing under Rule 11.

(C) Maintenance of Original Document. Unless otherwise ordered by the Court, an original of all documents filed electronically, including original signatures, shall be maintained by the party filing the document during the pendency of the case and through exhaustion of any appeals or appeal times, and

shall be made available, upon reasonable notice, for inspection by other counsel or the Court.

(D) Service of Original Complaint and related documents. After electronic filing of the original complaint, service upon parties is the responsibility of the filer and must be accomplished ~~traditionally~~, in accordance with the Sup. Ct. Civil these rules. Proof of service shall be filed electronically.

(E) Conventional Filing of Documents. Notwithstanding the foregoing, the following types of documents may be filed conventionally and need not be filed electronically, unless expressly required by the Court:

(i) Documents filed under seal. A motion to file documents under seal shall be filed and served electronically. The documents to be filed under seal shall be filed in paper form, unless a different procedure is required by statute, rule, the Court or administrative order. Documents filed under seal should be clearly marked as such by the filer.

(ii) Exhibits and real objects. Exhibits to declarations or other documents that are real objects (e.g. x-ray film or vehicle bumper) or which otherwise may not be comprehensibly viewed in an electronic format ~~may~~ shall be filed and served conventionally in paper form.

(iii) Courtesy Copies. Unless specifically requested by the Court, paper courtesy copies of documents filed electronically need not be delivered to the Court.

(F) Electronic Filing and Service of Orders and Other Papers. The Court may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of these rules, statutes or administrative order.

(G) Who shall File Electronically. By statute, rule or administrative order, all attorneys representing parties may be required to submit filings electronically. By statute, rule or administrative order, any person appearing pro se may file and serve documents electronically and may be served electronically, if they have consented in writing thereto, and if such activities are provided for by the Court's e-filing program.

(H) If the electronic filing is not filed because of a failure to process it through no fault of the sending party, the Court shall enter an order permitting the document to be filed nunc pro tunc to the date it was sent electronically, as long as the document is filed within ten (10) days of the attempted transmission.

## SCR-CIVIL 5-I

### PROOF OF SERVICE

Proof of service of ~~papers~~ filings required or permitted to be served (other than those for which a method of proof is prescribed elsewhere in these Rules or by statute) and proof that chambers copies have been supplied to the assigned judge as required by Rule 5(e), shall be filed before action is to be taken thereon. The proof shall show the date and manner of service on the parties and delivery to the judge, and may be by written acknowledgment thereof, by affidavit of the person making service or delivery, by certificate of a member of the Bar of this Court, or by other proof satisfactory to the Court. Failure to make such proof will not affect the validity thereof. The Court may at any time allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

## SCR-CIVIL 10-I

### PLEADINGS: STATIONERY AND LOCATIONAL INFORMATION

(a) Stationery; title; relief prayed. Pleadings and like papers shall be on opaque white paper, approximately 11 inches long and 8½ inches wide, without back or cover, fastened at the top and stating under the caption the nature of the pleading and the relief, if any, prayed.

(b) Locational information: Pleadings and other papers. The 1<sup>st</sup> pleading filed by or on behalf of a party shall set forth in the caption the party's name, full residence address, and unless the party is represented by counsel, the party's telephone number, if any. All subsequent pleadings and other papers filed by or on behalf of a party shall set forth the name, full residence address and telephone number of the party, unless that party is represented by counsel. If a party is represented by counsel, all pleadings or other papers shall set forth the name, office address, telephone number, e-mail address, and Bar number of the attorney. The names, addresses, and telephone numbers so shown shall be conclusively deemed to be correct and current. It is the obligation of the attorney or unrepresented party whose address or telephone number has been changed to immediately notify the appropriate branch or office within the Civil Division and all other attorneys and unrepresented parties named in the case of this change. Attorneys must include their Bar number in all such notices. Should a party incur expenses, including reasonable attorney's fees, due to the failure of any other party to promptly give notice of a change of address or telephone number, the Court, upon motion or upon its own initiative, may order the party failing to give notice to reimburse the other party for expenses incurred.

## SCR-CIVIL 11

### SIGNING OF PLEADINGS, MOTIONS, AND OTHER ~~PAPERS~~ FILINGS; REPRESENTATION TO COURT; SANCTIONS

(a) Signature. Every pleading, written motion, and other ~~paper~~ filing shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each ~~paper~~ filing shall state the signer's address and telephone number, if any. A name affixed by a rubber stamp shall not be deemed a signature. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned ~~paper~~ filing shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party. Electronic signatures are acceptable when affixed as part of the court's electronic filing program.

(b) Representations to court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other ~~paper~~ filing, including an electronic filing, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

## SCR-CIVIL 12-I

### MOTIONS PRACTICE

(a) Before filing any motion, except motions filed pursuant to Rule 11, the moving party shall first ascertain whether other affected parties will consent to the relief sought. For motions filed pursuant to Rule 11, good faith efforts to resolve or dispose of the issues in dispute must be made before the motion is served pursuant to Rule 11(c)(1)(A). Only when the movant certifies in writing that despite diligent efforts consent could not be obtained, or in the case of Rule 11 motions, resolution of the

disputed issues is not possible, will the Court consider the motion as a contested matter. If consent is obtained, and if the relief does not require court approval, the party seeking the relief may memorialize the other parties' consent in a letter to such parties (which shall not be filed) or in a praecipe filed and served as provided in Rule 5. If the relief sought is consented to but requires court approval, the moving party shall file, serve, and provide to the assigned judge a courtesy copy of a motion with includes the word "Consent" in its title and states that all affected parties have consented to the relief sought. No response to a consent motion is required. The Court will generally enter the proposed order, submitted with a consent motion pursuant to paragraph (e) of this rule, unless the Court determines that the order is not proper form or would unduly protract the litigation or otherwise be inappropriate. Copies of any order entered by the Court with respect to a consent motion will be docketed and mailed to the parties ~~by the Clerk~~ pursuant to Rule 77(d).

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(h) ~~Movant to provide pretrial conference scheduling order. At the end of each motion, along with the~~ the movant shall provide a proposed order, as required by Rule 12-I(e), the movant shall attach a copy of the Scheduling Order in the case, annotated to show any changes in dates that reflects the existing scheduling order dates as well as the proposed dates that are sought by the motion. If a specific court event has been set (e.g., case evaluation, pretrial conference, or trial), that date shall be shown in the caption of the motion, immediately below the calendar designation, as, for example, "Next Event: Mediation 11/25/91."

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## SCR-CIVIL 16

### PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Applicability. With the exception of cases assigned to the ~~hearing commissioner~~ magistrate judge under Rule 40-III or, unless otherwise ordered by the judge to whom the case is assigned, the provisions of this Rule shall apply to all civil actions and to all small claims actions and landlord-tenant actions certified to the Civil Division for jury trial.

(b) Initial scheduling and settlement conference. In every case assigned to a specific calendar or a specific judge, an initial scheduling and settlement conference shall be held as soon as practicable after the complaint is filed. At that conference the judge will ascertain the status of the case, explore the possibilities for early resolution through settlement or alternative dispute resolution techniques, and determine a reasonable time frame for bringing the case to conclusion. After consulting with the attorneys for the parties and with any unrepresented parties, the judge will place the case on one of several alternative time tracks and will enter a scheduling conference order which will set dates for future events in the case. No attorney need appear in person for the scheduling

conference if a praecipe conforming to the format of Civil Action Form 113 (Praecipe Requesting Scheduling Order) signed by all attorneys is filed no later than fourteen days prior to the scheduling conference date consenting to the entry by the Court of a track one or track two scheduling order outside their presence provided that the praecipe certifies that the case is at issue, all parties are represented by counsel, there are no pending motions and the praecipe is accompanied by an addressed envelope or mailing label for each attorney delivered with a copy to the assigned judge's chambers. Neither addressed envelopes nor mailing labels need be provided for documents filed under the Court's electronic filing program. The order will generally include dates for the following events:

(1) Deadline for discovery requests: No interrogatories, requests for admission, requests for production or inspection, or motions for physical or mental examinations may be served after this date. Only party depositions ad testificandum and nonparty depositions duces tecum or ad testificandum may be noticed after this date.

(2) Exchange lists of fact witnesses: On or before this date, each party must file and serve a listing, by name and address, of all fact witnesses known to that party, including experts who participated in, and will testify about, pertinent events. No witness may be called at trial, except for rebuttal or impeachment purposes, unless he or she was named on the list filed by one of the parties on or before this date or the calling party can establish that it did not learn of the witness until after this date.

(3) Proponent's Rule 26(b)(4) statement: By this date a statement comporting with Rule 26(b)(4) must be filed and served by any proponent of an issue (a party asserting a claim or an affirmative defense) who will offer an expert opinion on such an issue.

(4) Opponent's Rule 26(b)(4) statement; By this date a statement comporting with Rule 26(b)(4) must be filed and served by any opponent who will offer an expert opinion on such an issue.

(5) All discovery closed: After this date, no deposition or other discovery may be had, nor motion relating to discovery filed, except by leave of court.

(6) Deadline for filing motions: All motions must be filed by this date, except as provided in paragraphs (b)(5) and (d) of this Rule.

The scheduling conference order may also set dates for the joinder of other parties and amendment of pleadings, the completion of certain discovery, the filing of particular motions and legal memoranda, and any other matters appropriate in the circumstances of the case. The order will also ordinarily specify a date by which dispositive motions will generally be decided, a time period in which mediation or other alternative dispute resolution proceedings will be held, and a time period in which the final pretrial and settlement conference will be held.

All counsel and all parties must take the necessary steps to complete discovery and prepare for trial within the time limits established by the scheduling order. The scheduling order may not be modified except by leave of court upon a showing of good cause; stipulations between counsel shall not be effective to change any deadlines in the order without court approval, provided, however, that any date in the scheduling order except for the date of court proceedings (e.g., status hearings, ex parte proofs, ADR sessions, pretrials and trials) may be extended once for up to 14 days upon the filing and delivery to the assigned judge of a praecipe showing that all parties who have appeared in the action consent to such extension. Any motion to further modify a date so extended must recite that the date in question was previously extended by consent and must specify the length of that extension.

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(k) Continuances. No conference provided for in this Rule shall be continued except by order of the judge upon a showing of specific and sufficient reasons why the applicant cannot attend the conference as scheduled or will not be able by the scheduled date to report to the court the information required by this Rule. Except for applications based on circumstances arising thereafter, application for such continuance must be made to the judge not less than 30 days before the conference sought to be continued. ~~If the judge grants the continuance, the Clerk of the Court shall be so advised. The applicant shall immediately make arrangements through the Clerk of the Court for the rescheduling of the conference to a date available on that judge's calendar. Until the new conference date~~ an order granting a continuance is docketed the case shall remain set for conference on the original date.

## SCR-CIVIL 40-II

### CERTIFICATION AND ASSIGNMENT OF CASES TO CIVIL I CALENDARS

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(e) Procedure. After a case has been assigned to a Civil I calendar, the calendar number or judge's name shall appear below the civil action number on all papers filed in the case. The filing of pleadings and other papers in cases designated to a Civil I calendar shall be accomplished in accordance with the provisions of Rule 5(d) and (e).

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## SCR-CIVIL 40-III

### COLLECTION AND SUBROGATION CASES

(g) Copies of papers to ~~hearing commissioner~~ magistrate judge. In any case assigned to the ~~hearing commissioner~~ magistrate judge calendar, the party filing any motion or any paper relating to a motion (i.e., an opposition to a motion, memorandum of points and authorities, exhibits related thereto or proposed order) shall unless the filings are designated as ones which may be electronically filed, hand-deliver (or if the original paper has been mailed, may mail), on the date the original is filed or mailed, a copy thereof to the court mail depository of the ~~hearing commissioner~~ magistrate judge currently assigned to the collection/subrogation calendar. No other pleading or paper shall be so delivered unless so ordered.

## SCR-CIVIL 58

### ENTRY OF JUDGMENT

Subject to the provisions of Rule 54(b): (1) Upon a general verdict of a jury, or upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the Clerk, unless the Court or Administrative Order otherwise orders, shall forthwith prepare, sign and enter the judgment without awaiting any direction by the Court; (2) upon a decision by the Court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, the Court shall promptly approve the form of the judgment, and the Clerk or as otherwise directed by administrative order shall thereupon enter it. Every judgment shall be set forth on a separate document. A judgment is effective only when so set forth and when entered as provided in Rule 79(a). Entry of the judgment shall not be delayed, nor the time for appeal extended, in order to tax costs or award fees, except that, when a timely motion for attorneys' fees is made under Rule 54(d)(2), the Court, before a notice of appeal has been filed and has become effective, may order that the motion have the same effect under Rule 4(a)(4) of the District of Columbia Court of Appeals as a timely motion under Rule 59. Attorneys shall not submit forms of judgment except upon direction of the Court, and these directions shall not be given as a matter of course.

## SCR-CIVIL 77

### SUPERIOR COURT AND CLERK

(a) Superior Court always open. The Superior Court shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

(b) Trials and hearings; orders in chambers. All trials upon the merits shall be conducted in open court and so far as convenient in a regular court room. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the Clerk or other Court officials and at any place either within or without the District of Columbia; but no hearing, other than one ex parte, shall be conducted outside the District of Columbia without the consent of all parties affected thereby.

(c) Clerk's Office and orders by Clerk. The Clerk's Office with the Clerk or a deputy in attendance shall be open during business hours on all days except Saturdays after 12:00 noon, Sundays, and legal holidays. All motions and applications in the Clerk's Office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the Court are grantable of course by the Clerk; but the Clerk's action may be suspended or altered or rescinded by the Court upon cause shown.

(d)(1) Notice of orders or judgments. Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry ~~by mail~~ in the manner provided for in Rule 5(b) upon each party who is not in default for failure to appear, and shall make a note in the docket of the service. Any party may in addition serve a notice of such entry in the manner provided in Rule 5(b) for the service of papers.

(2) Nothing in this rule shall preclude a judicial officer or his or her authorized staff member from performing the function of the Clerk prescribed in paragraph (d) of this rule.

## SCR-CIVIL 79

### BOOKS AND RECORDS KEPT BY THE CLERK AND ENTRIES THEREIN

(a) Civil docket. The Clerk shall keep a "civil docket" and shall enter therein each civil action to which these Rules are made applicable. The "civil docket" may be kept solely by computer or electronic means. Actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the docket. All papers filed with the Clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically on the civil docket assigned to the action and shall be marked with its file number. These entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the Court and of the returns showing execution of process. The entry of an order or judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered the Clerk shall enter the work "jury" on the docket.

(b) Civil judgments and orders. The Clerk shall keep, a correct copy of every final judgment or appealable order, or order affecting title to or lien upon real or personal property, and any other order which the Court may direct to be kept. The Executive

Officer shall, subject to the supervision of the Chief Judge, prescribe the form and manner in which such copies shall be kept.

(c) Indices; calendars. Suitable indices of the civil docket and of every civil judgment and order referred to in subdivision (b) of this Rule shall be kept by the Clerk under the direction of the Court. There shall be prepared under the direction of the court calendars of all actions ready for trial, which shall distinguish “jury actions” from “court actions.”

(d) Other books and records of the Clerk. The Clerk shall also keep such other books and records as may be required from time to time by the Executive Officer of the District of Columbia Courts subject to the supervision of the Chief Judge.

(e) Entry on Docket. Nothing in these Rules shall preclude a judicial officer or his or her authorized judicial staff member from making entries on the docket.

## SCR-CIVIL 79-I

### COPIES AND CUSTODY OF PAPERS FILED

(a) Certified copies. (1) Upon receiving and filing any paper the Clerk shall stamp the date of filing on the face of the paper next to the title of the cause and shall also stamp the date of filing separately upon any exhibit. If any person filing any paper requests a certification of such filing, a copy of the paper provided by such person shall be marked to show the time and date of the filing and initialed by the person with whom the paper was filed. Such certified copy shall be prima facie evidence in any proceeding that the original of the paper was filed as shown by the certification

(2) Any filings made electronically as permitted by these rules or by Administrative Order shall be considered date stamped as specified by Administrative Order.

## SCR-CIVIL 81

### APPLICABILITY IN GENERAL

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(g) Substitutions.

(1) Whenever the name “Corporation Counsel” appears, the name “Attorney General” shall be substituted therefor; and

(2) Whenever the name “hearing commissioner” appears, the name “magistrate judge” shall be substituted therefor.

**SCR-CIVIL 83**

**DIRECTIVES BY JUDICIAL OFFICER**

A judicial officer may regulate practice in any manner consistent with applicable law ~~and~~ , these Rules and Administrative Order. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in applicable law or these Rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

**SCR-CIVIL 101**

**APPEARANCE AND WITHDRAWAL OF ATTORNEYS**

(a) Who may practice.

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(3) An attorney who is a member in good standing of the bar of any United States court or of the highest court of any state but who is not a member in good standing of the District of Columbia Bar may enter an appearance, and file pleadings in this Court, and if granted permission by the Court may participate in proceedings in this Court, pro hac vice, provided that such attorney joins of record a member in good standing of the District of Columbia Bar who will at all times be prepared to go forward with the case, and who shall sign all ~~papers~~ documents subsequently filed and shall attend all subsequent proceedings in the action unless this latter requirement is waived by the judge presiding at the proceeding in question. An attorney seeking permission to appear under this section shall file a praecipe indicating the attorney's name, address, telephone number, the jurisdiction(s) where the attorney is a member of a bar and the number of times the attorney has previously sought to appear under this Rule. Any attorney seeking to appear on a pro hac vice basis must comply with the restrictions prescribed in District of Columbia Court of Appeals Rule 49(c). The attorney shall also serve a copy of the praecipe on the District of Columbia Court of Appeals' Committee on Unauthorized Practice in the manner provided in SCR Civil 5. Proof of service shall be made by the filing of a certificate of the attorney showing the date and manner of service. Any member of the District of Columbia Bar who joins the attorney seeking special permission to appear shall also sign the praecipe and the certificate.

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(b) Entry of appearance. (1) If, after the first pleading or other paper is filed on behalf of any party, any additional attorney wishes to enter an appearance for that party, such attorney must file a praecipe noting the entry of the attorney's appearance and

listing the attorney's correct address, e-mail address, telephone number and Unified Bar number.

\* \* \* \*

By the Court:

Date: 8/25/05

G. Alprin, Acting Chief Judge

**For:** Rufus G. King, III  
Chief Judge

Copies to:

All Judges  
All Magistrate Judges  
Director of the Civil Division  
David Luria, Attorney Advisor