

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**ADMINISTRATIVE ORDER 06-10**

**(Promulgation of L&T Rule 3-I)**

**WHEREAS**, Pursuant to D.C. Code § 11-946 the Board of Judges of the Superior Court approved promulgation of SCR LT Rule 3-I at its monthly meeting on June 14, 2006; and

**WHEREAS**, this rule does not modify the Federal Rules of Civil Procedure;

**NOW, THEREFORE**, it is hereby,

**ORDERED**, that the Superior Court Rules of Civil Procedure for the Landlord and Tenant Branch be and are hereby amended by adding to them a new rule, SCR LT 3-I, as set forth below; and it is further

**ORDERED**, that this rule shall take effect July 17, 2006 and govern all proceedings thereafter commenced and, insofar as is just and practicable, all pending proceedings.

\* \* \*

**SCR LT 3-I**

PROPERTIES SUBJECT TO COURT-ORDERED RECEIVERSHIPS

(a) Owners and owners' agents. No owner or owner's agent may file a complaint for possession of real property based, in whole or in part, on nonpayment of rent if the property is subject to a court-ordered receivership pursuant to D.C. Code §§ 34-2300 *et seq.*, 42-3301 *et seq.*, or 42-3651.01 *et seq.* (2001), unless authorized by court order in the receivership action. A copy of any such order authorizing the filing of a complaint for possession of real property based, in whole or in part, on nonpayment of rent shall be attached as an exhibit to the complaint.

(b) Receivers. A receiver may file a complaint seeking to recover possession of real property that is the subject of a court-ordered receivership pursuant to D.C. Code §§ 42-3301 *et seq.* or 34-2300 *et seq.* (2001). In any case brought by a receiver, a copy of the receivership order shall be attached as an exhibit to the complaint. Unless the receiver files along with the complaint a sworn statement signed by the owner reflecting the owner's consent to be joined as a party plaintiff, the receiver shall file a motion, along with the complaint, for leave to join the owner as a party defendant under SCR-Civ. 19(a). The receiver shall serve the complaint and the motion for joinder upon the owner in any manner permitted by SCR-Civ. 4 at least seven days, not counting Sundays and legal holidays, in advance of the initial hearing. At least five days, not counting

Saturdays, Sundays, and legal holidays, in advance of the initial hearing, the receiver shall demonstrate proof of such service by filing an affidavit naming the person(s) served and establishing the manner of service and the date(s) on which service was effected. Upon a judicial determination at the initial hearing that the owner may be joined under SCR-Civ. 19(a) and that the receiver has effected service of process upon the owner, the owner shall be realigned as a party plaintiff. The complaint shall be dismissed without prejudice at the initial hearing if the judicial officer determines that the receiver has not effected service of process upon the owner or that the owner may not properly be joined under SCR-Civ. 19(a).

(c) *Complaints that do not involve a claim of nonpayment of rent.* Unless prohibited by the receivership order, an owner or owner's agent may file a complaint for possession of property subject to a court-ordered receivership, under D.C. Code §§ 34-2300 *et seq.*, 42-3301 *et seq.*, or 42-3651.01 *et seq.* (2001), that is not based, in whole or in part, on the nonpayment of rent. The owner or owner's agent shall attach a copy of the receivership order as an exhibit to any such complaint. At least fourteen calendar days before the initial hearing, the owner or owner's agent shall file a certificate of service certifying that a file-stamped copy of the complaint has been sent by first-class mail to the receiver at the most recent address on file with the Clerk in the receivership action. In an action brought by an owner or owner's agent in which the complaint is not based, in whole or in part, on the nonpayment of rent, the court may not enter a protective order unless the receiver has been joined as a party under SCR-Civ. 19(a) and served with process as required by section (b) of this rule. No monies paid into the court registry pursuant to a protective order may be released except in a manner consistent with the court's orders in the receivership action.

(d) *Service of process.* Nothing in this rule relieves a plaintiff's obligation to serve a tenant or occupant with process in accordance with Landlord and Tenant Rule 4.

(e) *Sanctions.* Any party who files a complaint in violation of this rule shall be subject to such sanctions as are just, including among others, reimbursement of the other parties' expenses, payment of reasonable attorneys' fees, and/or dismissal of the complaint. In lieu of these sanctions or in addition thereto, a violation of a court order issued pursuant to this rule or in connection with the receivership may result in an order treating such a violation as a contempt of court.

### **Comment**

Generally, when a property is subject to a court-ordered receivership under one of the statutory provisions cited in the rule, neither the owner nor the owner's agent is permitted to collect rent from a tenant or to maintain an action for possession of the property based upon a tenant's alleged nonpayment of rent. The owner is a necessary party, however, in the event that the receiver brings a complaint for possession of the property. *Shannon & Luchs Co. v. Jeter*, 469 A.2d 812 (D.C. 1983). To join an owner who will not join voluntarily, the federal counterpart of SCR-Civ. 19 requires that the owner be served with process, joined as a defendant, and realigned as a plaintiff. *JTG of Nashville, Inc. v. Rhythm Band, Inc.*, 693 F. Supp. 623, 628 (M.D. Tenn. 1988). See also *Raskauskas v. Temple Realty Co.*, 589 A.2d 17, 20 n.2, 21-22 (D.C. 1991). Tenant receiverships are not included in section (b) because the reasoning in *Jeter* is inapplicable in tenant

