

Suggested Changes for Proposed  
District of Columbia Court of Appeals Rules

SUMMARY

The Appellate Practice Sub-Committee of the Federal Practice Committee, Litigation Division, of the District of Columbia Bar has reviewed the proposed rules of the District of Columbia Court of Appeals. The Sub-Committee has formulated suggested changes to those proposed rules, and has attempted to break those suggested changes into substantive and administrative areas.

In the substantive area, the Sub-Committee has suggested changes to portions of nine of the proposed rules. The suggestions in the substantive area deal primarily with clarification of the rules as proposed. In particular, the Sub-Committee has suggested clarification in Rules 5(a) and 5(c) as an aid to practitioners before the bar. The Sub-Committee has also suggested additional language to Rule 7A(i) to do away with what might be perceived as a potential due process problem. Similarly, the Sub-Committee has suggested additional language be added to Rule 14 such that a hearing might be held prior to dismissal of an appeal for failure to comply with procedures. The Sub-Committee has suggested in Rule 27(h) the addition of language which will make it clear to members of the bar that motions for summary disposition are seldom granted, and should not be filed routinely. We have also suggested a change to Rule 28(h) to allow for citation of unpublished opinions which have been rendered by the District of Columbia Court of Appeals. It is the Sub-Committee's opinion that Rule 30 serves no useful purpose, assuming that proper citation is made in the briefs filed by the parties to the portions of the transcript which are used as support therefor. The filing of an additional pleading as required by Rule 30, therefore seems to be merely duplicative. Finally, in regard to Rule 34(c) the Sub-Committee has suggested a docketing scheme which would give the litigants some idea of when the oral argument might take place to better allow for scheduling and coordination of calendars among the various attorneys involved.

Many administrative and technical changes have been suggested. One of the changes suggests that the Court no longer use 8½" x 13" paper, and recommends instead that 8½" x 11" paper be utilized so that the District of Columbia Court of Appeals is administratively similar to the majority of the appellate courts in the country. Other housekeeping suggestions involve the number of copies for the notice of appeal, how to properly handle the notice of appeal which has been filed too soon, and the need for the Clerk of the Superior Court to note in the docket when he has served copies on the other litigants of the notice of appeal and/or other papers. Many suggestions of an administrative nature have also been made with regard to the procedure to be followed in emergency and/or expedited appeals. The Sub-Committee has also suggested modifications in Rule 7, Rule 8, and Rule 18 with regard to the filing of supersedeas bonds and the effect of appeal with regard to the staying of the underlying decision involved. Further, we have pointed out a slight inconsistency between Rules 19 and 20 and suggested methods for clarification in that regard. We have also suggested that the Court

may wish to give guidance in Rule 32 regarding proper format for citation and also have suggested that instead of requiring the names of counsel to argue the appeal to be set forth at the time of filing the brief, that it might be better to require the parties to inform the Court once oral argument has been set who will argue the case. Finally, given the importance of oral argument, the Sub-Committee has indicated with regard to Rule 34(a) that the goal should be personal notification of counsel and/or the parties involved concerning the date for oral argument rather than reliance being had on the Daily Washington Law Reporter.

The foregoing paragraphs are a summary of the areas where the Sub-Committee has suggested changes. In the pages that follow, a more thorough treatment is made of each particular suggested change, with a specific cite to the rule and paragraph involved.