

**Superior Court Civil Rule
71A-I**

1 of 100 DOCUMENTS

DISTRICT OF COLUMBIA COURT RULES ANNOTATED
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SUPERIOR COURT RULES OF CIVIL PROCEDURE
VIII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

D.C. SCR-Civil Rule 71A-I (2006)

Review Court Orders which may amend this Rule.

Rule 71A-I. Proceedings for forfeiture of property.

(a) Libel of information.

In all cases involving forfeiture of property for violation of any provision of the District of Columbia Code, the cause, unless otherwise provided by statute, shall be commenced by the filing of a libel of information.

Said libel of information shall allege a description of the property seized, the date and place of the seizure, the person or persons from whom the property was seized, and that the property was used, or was to be used, in violation of the District of Columbia Code, specifying the applicable section(s).

(b) Process.

Process shall be issued only upon order of Court. Such order shall direct the issuance of a warrant of arrest with a return date addressed to the United States Marshal directing the Marshal to seize the property described in the libel of information. It shall further direct that upon seizure, the Marshal shall cause public notice thereof and of the time assigned for return of such process to be given once in a legal newspaper or periodical of daily circulation as prescribed in SCR Civil 4-I and any other newspaper or periodical specifically designated by the Court. The date of return of process shall be at least 20 days from the date of publication. Publication shall be provided by an affidavit of an officer or agent of the publisher stating the dates of publication with an attached copy of the order as published.

The libellant shall send a copy of the libel of information and of the warrant issued thereon by 1st class mail to any lienholder of record, to any person who has made written claim to the res to the office of the Corporation Counsel, and to any other person who is known or in the exercise of reasonable diligence should be known to the Corporation Counsel to have a right of claim to the res, at the person's last known address. Said envelope containing this material shall be marked "please forward to addressee".

(c) Default.

If no answer or claim is filed upon the return of the process, a default decree of forfeiture shall be entered against the property before the Court, and the Court shall order the condemnation and forfeiture of said property.

(d) Intervention.

The procedures set forth in Rule 24 of these Rules shall govern in all cases where there is a right to intervene in the forfeiture action. Where, however, all parties consent to the motion to intervene, such motion shall be entered by the Court as granted without formal hearing.

(e) Other matters.

Except as hereinabove provided, the Civil Rules of this Court shall govern, so far as practicable, actions for the forfeiture of property as set forth in this Rule.

D.C. SCR-Civil Rule 71A-I

HISTORY: Amended, Aug. 3, 1972; Apr. 2, 1990; amended eff. May 13, 1991.

NOTES:

COMMENT

The authority of the District of Columbia to acquire property by eminent domain is found in Section 16-311 et seq. D.C. Code 1967 Edition (transferred to Superior Court by Section 11-921(a)(3)(A)(ii) page 12 Public Law 91-358) and by Section 7-202 et seq. D.C. Code 1967 Edition (transferred to Superior Court by Section 155(c)(1)(A) page 98 Public Law 91-358).

The practice of eminent domain in the District Court has followed these statutory requirements as implemented by the Federal Rules of Civil Procedure. Thus, in adapting Federal Rule 71A to use by the Superior Court, only minor editorial changes have been made in the language of that Rule.

Editor's Note. -- The reference to § 16-311 et seq. of the D.C. Code in the first paragraph of the Comment seems incorrect. Section 16-311 et seq. deals with adoption. *Section 16-1311 et seq. of the D.C. Code* deals with eminent domain.

Section 155(c)(1)(A) of Pub. L. 91-358, referred to in the first paragraph of the Comment, was codified as § 7-202 of the D.C. Code. Section 7-202 was repealed by D.C. Law 4-201, effective March 10, 1983.

The subject matter of Federal Rule 71A(k), omitted from Rule 71A, deals with condemnation under a state's power of eminent domain.

Notice and time to answer. -- No default decree of forfeiture should be entered until such time as the published notice permitted by this Rule provides interested parties with 20 days thereafter for the filing of an answer. *District of Columbia v. \$ 59.00 in United States Currency, 117 WLR 785 (Super. Ct. 1989)*.

Persons entitled to notice. -- Defendant's attorney was not an interested party in the forfeiture proceedings who was entitled to notice under subdivision (b). *Berry v. District of Columbia, 833 F.2d 1031 (D.C. Cir. 1987)*.