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Via Electronic Mail to laura.wait@dcsc.gov

Laura M.L. Wait
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Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Room 6715
Washington, D.C. 20001

Re: Comments on Proposed Amendments to the Superior Court Rules Governing Domestic Relations Proceedings and New Superior Court Rules Governing Parentage and Support Proceedings

Dear Ms. Wait:

Bread for the City, the Legal Aid Society of the District of Columbia ("Legal Aid"), the D.C. Bar Pro Bono Center, and Professors Stacy Brustin, Catherine Klein, Tianna Gibbs, Deborah Epstein, and Laurie Kohn submit these comments on the proposed amendments to the Superior Court Rules Governing Domestic Relations Proceedings ("DRB Rules") and new Superior Court Rules Governing Parentage & Support Proceedings ("P&S Rules").

The District of Columbia Superior Court Rules Committee ("the Committee") has proposed comprehensive amendments to the DRB Rules, as well as new P&S Rules. As a result of the passage of time, some of the current DRB Rules are out-of-date, and others are inconsistent with current practice in the DRB court, especially with respect to service of process and contempt procedures. We support the Committee's effort to bring these long-needed DRB Rules amendments, and the new P&S Rules, to fruition.

These comments are organized into two parts: (1) comments regarding proposed rule amendments which may present obstacles for unrepresented litigants or domestic violence survivors seeking relief in the Domestic Relations Branch; and (2) comments on the proposed P&S Rules.

(1) Comments on the Proposed Amendments to DRB Rules

1. Rule 1 (Scope) and Rule 3 (Commencing an Action)

Rule 1 and Rule 3 do not clearly state that DRB encompasses support matters incidental to custody complaints. Currently Rule 1(b)(1) refers to support in the context of divorce or legal separation but there is no reference to support in Rule 1(b)(4) which focuses on custody. The only other mention of support is in 1(b)(3) which refers to "enforcement of support," not establishment. Similarly, in Rule (3)(a) on actions commenced by complaint, support is included when incidental to divorce or legal separation 3(a)(1) but not when incidental to custody 3(a)(3). We recommend including support in Rule 1(b)(4), Rule 3(a)(3), and Rule 3(b) to make clear that DRB courts may establish, modify, and enforce support incidental to a custody matters.

2. Rule 4 (Process)

Rule 4 outlines the requirements for service of process, with amended subsection (i) (subsection (l), "Time Limit for Service," in the proposed DRB Rules) requiring a party to file proof of service within 60 days of filing the complaint. The current Rule 4 allows a party to request additional time for service by way of a praecipe filed with the clerk prior to the expiration of the initial 60-day period. The current rule requires the clerk to re-issue the summons for an additional 60 days immediately upon receiving the first such request. Amended subsection (i)(2) creates an additional burden on litigants by requiring parties to file a motion to extend the time for service beyond the initial 60-day period. The proposed change from praecipe to motion is unnecessary and will erect a substantial burden on the many *pro se* litigants in DRB cases.

The current practice of extending the time for service once as a matter of course through a simple request to the clerk is easy and promotes access to justice for low-income, *pro se* litigants in DRB cases. Unrepresented parties often face tremendous challenges to accomplishing service. By the very nature of a DRB case, the opposing party is always another individual and never a company or corporation, easily served through a registered agent. The filing party's own limited resources restrict their ability to hire a process server, leaving parties reliant on friends or family to seek out the opposing party and serve him or her. And the immensely personal nature of the relief requested can prompt safety concerns when the opposing party has a history of violence. Being required to file a motion to obtain additional time for service will add an additional barrier should a party be unable to locate or safely accomplish service during the initial 60-day period. Rather than receiving the reissued summons immediately when requested, the filing party would need to draft a motion, pay a filing fee, and return to court a second time for a hearing on the motion and/or to obtain the reissued summons after the motion has been granted. Should an opportunity for service present itself while the motion is pending or before the party has the time and resources to return to court to retrieve the reissued summons, the party would be unable to accomplish service for lack of the necessary paperwork. In addition to creating additional hurdles for *pro se* litigants, the requirement of filing a motion may further stretch the Court's resources. Judicial officers will need to find time on their already full calendars to rule on motions for additional time to serve, and many *pro se* litigants will likely rely on assistance from the Family Court Self-Help Center to file their motions. Further, in the context of DRB cases, there would invariably be good cause for an initial extension of this sort, making the filing of a motion explaining the circumstances both a burden on the movant and a waste of judicial resources.

The interpersonal nature of DRB cases does not lend itself to adoption of the civil rule requiring a motion to request additional time for service. We recommend that the Committee retain the current process for requesting an extension of time before the initial 60-day service period runs.

3. Rule 37 (Failure to Make Disclosures or to Cooperate in Discovery; Sanctions)

Rule 37 addresses the procedures for compelling disclosure or discovery, and outlines the consequences of failure to comply with an order compelling disclosure or discovery. Subsection

(a)(1)(A), as amended, requires the parties or counsel to meet *in person* for a reasonable period of time in an effort to resolve the disputed matter before a party can file a motion to compel discovery. The requirement of an in-person meeting is impractical and burdensome on litigants in DRB cases, most of whom are unrepresented and/or facing unrepresented opposing parties. For example, the requirement may be impossible or extremely difficult for unrepresented parties who live outside of the District of Columbia to fulfill, particularly if they are already required to incur costs to travel to court hearings for their case. Traveling to the District of Columbia for an in-person meeting about disclosures and discovery would be an additional expense for the party. In addition, some parties would be unable to attend an in-person meeting due to other limits on their ability to travel such as illness or incarceration.

Even when counsel is involved, requiring counsel to meet with an unrepresented opposing party in an effort to convince him or her to respond to discovery is frequently inappropriate, and in almost all circumstances is unlikely to be any more productive than emailing or calling the opposing party prior to raising the dispute through the court. While amended subsection (a)(1)(C) allows for waiver of the requirement of an in-person meeting in limited circumstances, the requirements for claiming such a waiver are themselves overly burdensome. Subsection (a)(1)(C)(iii) addresses a situation in which a court order, such as a Civil Protection Order, prohibits an in-person meeting; however, this narrow exception does not address the many cases in which a Civil Protection Order has been granted in the past but is no longer in effect at the time of the discovery dispute, or where there is a real safety concern that has not yet been addressed by a court order.

The nature of litigation in the Domestic Relations Branch is fundamentally different from litigation in other civil matters. Conforming to the civil rules is inappropriate where, as here, it is based on the unrealistic expectation of collegial adversaries. We recommend that the Committee remove the requirement of an in-person meeting prior to the filing of a motion to compel, or, in the alternative, amend it to apply only when both parties are represented by counsel.

4. Rule 41 (Dismissal of Actions)

Rule 41 addresses the dismissal of an action before the Court. Specifically, subsection (b) addresses involuntary dismissals and their subsequent effect, and as amended outlines when the Court or the Clerk may dismiss an action. Rule 41(b)(2)(A)(ii) provides that when a plaintiff has filed an action against multiple defendants, the Clerk may, on his or her own initiative, dismiss the action against one of those defendants if the plaintiff has failed to provide proof of service against that defendant. As written, this rule is problematic for two reasons. First, given that these actions can involve the custody and care of children, it is vital that the Court only be permitted to proceed only after all necessary, interested parties to an action have been properly served. For example, in a case involving a third party or de facto parent, if one biological parent has been served, but the other has not, the Court should not proceed.

Second, as written, this rule could provide an incentive to litigants to not serve a particular interested party to an action. For example, if a third party or a de facto parent knows the biological father will contest his or her complaint for custody but the biological mother will consent to the action, the third party or de facto parent could file an action against both biological

parents but fail to serve the biological father. Under this rule, the Clerk could then dismiss the action against the biological father for lack of service, but the action against the biological mother could still proceed. In that case, the Court would be proceeding without valid service of all the necessary, interested parties. We recommend that the Committee re-write this rule. When multiple defendants have been named in an action, if the plaintiff has not provided proof of service on all named defendants (including proof of service by alternate methods or by publication, where approved by the Court), the action should be dismissed in its entirety, or the plaintiff should be afforded additional time to serve all the named parties. The action should not be permitted to proceed unless all named, necessary parties have been properly served.

Rule 41(d) addresses the costs of a previously dismissed action. In sum, this rule permits the court to require that a plaintiff pay all or part of the costs of a previously dismissed action if that plaintiff files a new action "based on or including the same claim against the same defendant." This rule seems unnecessarily punitive and inappropriate for matters in which the well-being of children is at issue. There may be many reasons why a litigant chooses to voluntarily dismiss a domestic relations action. For instance, if there is domestic violence at play in the family dynamic, the abuser's power and control over the abused party may have influenced that party to dismiss his or her action. If that party later determines he or she needs to proceed with the case, he or she should not then be subjected to even the possibility of having to pay the costs of the prior dismissed action. Doing so could discourage parties from seeking the Court's help when it may be necessary for the safety and security of the parties and the minor children involved.

Additionally, the Domestic Relations Branch is a high-volume court where many litigants may find themselves filing multiple pleadings with the court. At times, parties may believe the relationship will get better, or that they will be able to reach an agreement or arrangement without the Court's assistance. If those measures fail, either party should be free to come back to the Court for assistance without also bearing the cost of a previously dismissed action.

We recommend that the Committee delete this subsection of Rule 41. Apart from the standard filing fees, litigants should not be required to pay additional costs if they dismiss an action and then file that same action again.

5. **Rule 54-II (Waiver of Costs, Fees, or Security)**

Rule 54-II addresses the waiver of costs, fees, or security. Subsection (a) of the amended rule, and of the current rule, permits a litigant to submit an Application to Proceed Without Payment of Costs, Fees, or Security (Form 106A) at any point in the proceedings. The rule does not explicitly require the applicant to attach a pleading or motion that the applicant intends to file to the Form 106A when requesting a fee waiver.

The practice of the Judge-in-Chambers, however, is to require the applicant to attach a pleading or motion to the Form 106A when filing for a fee waiver. The Judge-in-Chambers will not process a Form 106A if the applicant does not intend to file any pleading or motion simultaneously. This unofficial policy, which is not supported the language of Rule 54-II, interferes with the ability of low-income litigants to access justice. There are many situations in which a litigant may wish to have their Form 106A ruled on before they are in a position to file a

specific pleading or motion in a case. The process for submitting a Form 106A and the process for filing a pleading can both be extremely time-intensive, sometimes requiring an entire day spent in Superior Court. Many low-income litigants cannot afford to spend that time at Court due to work or childcare obligations, and it may be more practical to address the Form one day and file the pleading a different day.

We recommend that the Committee amend subsection (a) to read: "An application may be submitted at any point in the proceedings, including before an initial complaint or petition, and it does not need to be accompanied by a pleading or motion that the applicant intends to file."

6. Rule 55 (Default)

Rule 55 addresses default judgments and orders. Subsection (b), as amended, addresses default parentage orders. Proposed Rule 55(b)(2)(A) states: "When a defendant or respondent fails to appear at a hearing in which parentage is at issue, the court may conduct an ex parte hearing on that date to determine the issue of parentage, but an ex parte hearing is not required." This language is ambiguous. It is unclear whether the second clause means the court can determine the issue of parentage without holding a hearing, which is not permitted under current DRB Rule 405, or it if means the court may, but is not required, to proceed to a default hearing on parentage that day, with the intent of this latter option being to present the Court with the option of scheduling an ex parte hearing on a different date, or to encourage the Court to avoid ex parte hearings and strive to have all parties present when ruling on parentage.

Current DRB Rule 405 addresses paternity and includes specific requirements for default orders adjudicating parentage. Because the amended rules propose deleting current Rule 405, we are concerned that these necessary requirements have been omitted from amended Rule 55. Specifically, current Rule 405(e) states that: "…the issues of paternity and amount of support may be heard and determined ex parte on the return date specified in the order directing appearance. If the Court is satisfied that (1) there is uncontroverted proof that the respondent is the natural father of the child as alleged by the petitioner, and (2) justice to the child requires an immediate judicial determination of the petition, which shall not be defeated by respondent's non-appearance, it may enter an order adjudging respondent to be the natural father of the child…." The requirement that the Court make these specific findings prior to entering a default adjudication of parentage serves to protect the due process rights of putative fathers by creating a structure in which default, ex parte adjudications of parentage are disfavored but permitted under the limited circumstances when this high standard is met. It is extremely problematic that these procedural due process protections are not included in the amended Rule 55.

Rule 55(b)(2)(B), as amended, is titled "Requirements for Issuance of Default Order" and addresses the service requirements before a default order can issue. These subsections do not include any of the non-service related requirements for adjudicating parentage ex parte that were previously found in Rule 405. Due to the weighty nature of parentage proceedings and the long-term impacts on both parent and child of establishing parentage, and because the proposed new Paternity and Support Rules do not apply in domestic relations proceedings, we recommend that the Committee amend Rule 55(b)(2)(A) to make it clear that the Court should not enter orders of parentage on an ex parte basis except in extreme circumstances when the specified standard of

proof currently found in Rule 405 is met. We recommend that the Committee amend Rule 55(b)(2)(B) to include the specific requirements found in current Rule 405, namely that (1) there is uncontroverted proof that the respondent is the natural father of the child as alleged by the petitioner, and (2) justice to the child requires an immediate judicial determination of the petition.

7. Rule 68 (Offer of Judgment)

Rule 68 addresses shifting costs after an unaccepted offer yields a less favorable trial decision. As amended, the rule provides for 14 days notice of a proposed offer prior to trial to trigger cost shifting. Subsection (d) states that if the rejecting party (the offeree) obtains a judgment "not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made." While much of this principle is contained in the current Rule 68, we do not think that such cost shifting is appropriate in DRB. This language reflects standard practice in civil cases in which liability is more clearly at issue. The Comment to the proposed rule points to attorney's fees, but the statute and case law more directly address situations in which attorney's fees should be awarded.

A majority of cases in the Domestic Relations Branch involve custody of children and divorce, and in these matters, most parties are unrepresented. Custody of children and the equitable distribution of property and debt are, by their nature, fact-specific and involve weighing a multitude of factors. It would not be an easy task for the Court to determine whether a judgment distributing a variety of assets and debts, and/or establishing a schedule for custody and visitation of children, is more or less favorable than an offer of judgment. Moreover, requiring domestic violence survivors to evaluate cost shifting when deciding whether to accept an offer related to the well-being of their children and/or that implicates their own safety is inappropriate. D.C. has a statutory scheme for shifting the presumption for joint custody in cases involving domestic violence, but a parent may not know whether a judge will apply the presumption or find it rebutted in any individual case. Also, in divorce cases, the judge considers the reason the relationship ended as one of many factors to determine how to equitably divide property and debt. Parties should not be required to predict how a judge will weigh domestic violence or adultery when determining equitable distribution. Attorney's fees and cost shifting should not be automatically (or presumptively) awarded in these matters.

We encourage the Court to abandon attempts to apply this civil rule in the Domestic Relations Branch in favor of a rule plainly outlining the process for requests for attorney's fees, referencing in a Comment the statute and case law. In a rare case in which traditional liability is at issue, Civil Rule 68 should apply.

8. Rule 101 (Practice Before This Court)

Rule 101(e)(2)(B) outlines the process for requesting the appointment of an attorney or guardian ad litem ("GAL") for a minor child. The amended rule retains the current rule's implied requirement of a written motion. Many litigants make oral motions to request the appointment of a GAL. This is a common practice in DRB court, and we suggest that the amended rule contain language providing for an oral motion. Unrepresented litigants already experience difficulty in serving opposing parties and paying filing fees, and requiring a written motion in instances when

those litigants want a GAL appointed to their case creates an unnecessary barrier to access to justice. Because the Court may appoint an attorney for a minor child sua sponte, or may deny an oral motion when made (and/or require a written motion), this suggestion should not require any change in current practice.

We suggest that the rule provide that a party seeking the appointment of an attorney or guardian ad litem to represent a minor child make the request by oral motion or written motion served on all other parties. This removes additional barriers to self-represented litigants.

9. Comments

If the Committee plans to retain the current Comments for the DRB Rules in addition to Comments for the 2018 amendments, to avoid confusion, the Committee should explain this practice in the new Comment to DRB Rule 1. The Committee should also provide a statement addressing how to handle conflicts between the previous Comments, the amended rules, and the Comments to the 2018 amendments. For example, the previous Comment to DRB Rule 1 references the current paragraph (d), which was deleted in the amended rule. The Comment to DRB 1 should state that where the previous Comments conflict with the amended rules or the Comments to the 2018 amendments, the latter control.

(2) <u>Comments on Proposed P&S Rules</u>

1. Rule 1 (Title and Scope of Rules)

The Paternity and Child Support Branch (to be renamed the Parentage and Support Branch under the proposed rules) has never had its own set of court rules, and we commend the Court for creating these rules to provide needed procedural guidance in parentage and child support matters. However, these P&S Rules should apply more broadly in any matter in which parentage or child support may be raised within the D.C. Superior Court, including the Domestic Relations and Juvenile and Neglect Branches of the Family Court and the Domestic Violence Unit. Specifically, with respect to the Domestic Relations Branch, the rules relating to parentage and child support matters should be structured within the court rules so that the same rules apply regardless of whether the parentage or child support matter is heard in the Parentage and Support Branch or the Domestic Relations Branch. Limiting the P&S Rules so they apply only to matters before the P&S Branch risks the continued differential handling of parentage and child support matters depending on which part of the Court such matters are heard. In most cases, the comments offered below seek to have the DRB and P&S Rules provide the same language or process to ensure consistency in the handling of parentage and child support matters across different Branches of the Court.

2. Rule 2 (Definitions; Unsworn Declarations)

The P&S Rules and DRB Rules have two different definitions of "minor" in cases involving child support. P&S Rule 2(a)(3)(B) appropriately notes that "in cases where a child support order has been in issued in another jurisdiction, [a minor is] any person designated as a minor under the laws of that jurisdiction." This definition of minor is not included in its counterpart in the DRB Rules, see proposed Super. Ct. Dom. Rel. R. 2(b)(3), and should be included.

Similarly, P&S Rule 2(a)(B)(4) regarding the definition of "reciprocal" or "interstate" support and P&S Rule 2(a)(B)(5) regarding the definition of IV-D Agency are not included in its counterpart in the DRB Rules even though the DRB Rules later make reference to "proceedings for interstate or reciprocal support," see proposed Super. Ct. Dom. Rel. R. 3(a)(8) and 401). These definitions should be included in the DRB Rules.

3. Rule 3 (Commencing an Action and Enforcement of Child Support Orders)

P&S Rule 3(b) and 3(c) detail the contents of a parentage and child support petition. However, the DRB Rules do not incorporate these P&S rule provisions, see proposed Super. Ct. Dom. Rel. R. 3(b). Not including these two subsections in the DRB Rules makes it appear that including the information listed in P&S Rule 3(b) and 3(c) is only required in P&S Branch cases; however, these same requirements should apply when parentage and child support requests are made in DRB matters.

The Comment included after P&S Rule 3 states "[t]his rule does not affect the rights and obligations of parties to raise issues regarding parentage, child support, or enforcement in the Domestic Relations Branch." We believe the intent of this Comment is to note that litigants can raise parentage, child support, or enforcement of child support as part of their Domestic Relations Branch case, and litigants are not required to file a separate P&S case. However, given some of the differences in the language between the P&S Rules and its counterparts in the DRB Rules, this phrasing in the Comment might be interpreted to mean that the rules in the P&S Branch do not apply to parentage or child support matters in the Domestic Relations Branch. As explained earlier, we believe the same set of rules governing P&S cases should also govern the parentage and child support matters in DRB cases.

4. Rule 4 (Process)

To ensure consistency in the handling of parentage and child support cases across different branches of the Court, the provisions currently found only in the proposed P&S Rules should also apply in the Domestic Relations Branch. Below are the provisions of P&S Rule 4 that should also be included in its counterpart in the DRB Rules:

- *P&S Rule 4(a)(1) & (2)* regarding the contents and amendments of the Notice of Hearing and Order Directing Appearance (NOHODA) or a Notice of Motion Hearing. See proposed Super. Ct. Dom. Rel. R. 4 (b)(2).

- *P&S Rule 4(b)(2)* regarding post-judgment motions. See proposed Super. Ct. Dom. Rel. R. 4(b)(2). In addition, it is unclear why in the P&S Rules, unlike its counterpart in the DRB Rules, it states "[w]hen a judge or magistrate judge orders a hearing on a post-judgment motion…." We believe this P&S rule should follow the language and procedure outlined in the DRB Rules regarding the issuance of a summons for a post-judgment motion, see proposed Super. Ct. Dom. Rel. R. 4(b)(1)(B), so that P&S Rule 4(b)(2) reads "[a]t the time a post-judgment motion is filed, the clerk must issue a Notice of Motion Hearing for each party to be served if…." This language should also be included in Super. Ct. Dom. Rel. R. 4(b).

- *P&S Rule 4(d) & (e)* regarding territorial limits of effective service and serving an individual in a foreign country. DRB Rule 4(e) regarding territorial limits of effective service only provides that service of "a summons, complaint, and any order establishes personal jurisdiction over a defendant…" It does not clearly appear to include NOHODAs.

- *P&S Rule 4(f)(1)(B)* regarding proof of service when made by certified mail and first-class mail. The P&S Rule has language that is slightly different from its counterpart in the DRB Rules, see proposed Super. Ct. Dom. Rel. R. 4(h)(3). For example, P&S Rule 4(f)(1)(B)(ii) provides that the return of service affidavit must state "the name and address of the person who posted the certified and first-class mail"; whereas, DRB Rule 4(h)(3)(B) requires the affidavit to include the "date when the summons and complaint, petition, or motion were mailed and by whom." Such differences should be resolved so that both Branches require the same information in the affidavit.

- *P&S Rule 4(h)* regarding bench warrants and 4(i) regarding notice given in open court. These provision should also apply in DRB cases.

5. Rule 4(g) (Time Limit for Service)

P&S Rule 4(g)(2) should be revised so that it reflects the suggested changes for DRB Rule 4(i), discussed above. In addition, the following language regarding NOHODAs found in P&S Rule 4(g)(1) should also be included in its counterpart in DRB Rule 4(i): "[e]xcept where service is waived or made in open court, service must be accomplished before the time for commencement of the hearing specified on the Notice of Hearing and Order Directing Appearance or Notice of Motion Hearing. A separate proof must be filed as to each respondent who has not responded to the petition."

6. Rule 5 (Form of Pleadings, Motions and Other Papers)

Again, to ensure consistency in the handling of parentage and child support cases across Branches of the Court, the P&S and DRB Rules should have the same language with respect to requirements regarding the form of pleadings and other court papers. Below are provisions where the P&S rule is different than its counterpart in the DRB Rules.

- *P&S Rule 5(b)(1)(D)* states the caption should include "the name of the pleading, and, if a request for determination of parentage and/or child support is made in the pleading, the inscription "ACTION INVOLVING CHILD SUPPORT" or "ACTION INVOLVING PARENTAGE" immediately below the name of the pleading"; whereas, DRB Rule 10(b)(1)(D) does not mention parentage actions (but does mention "motion … or other paper") and requires "the name of the pleading, motion, or other paper and, if a request for child support is made in the pleading, the inscription "ACTION INVOLVING CHILD SUPPORT" immediately below the name of the pleading. Also, P&S Rule 5(b)(1)(B)(ii) should not include the word "complaint."

- *P&S Rule 5(b)(3)* regarding when parties' information is deemed correct and current. P&S Rule 5(b)(3) starts by noting "[e]xcept as modified by praecipe"; whereas,

DRB Rule 10(b)(3) says "[e]xcept as modified by a notice." The P&S and DRB Rules should require the same document – either a "praecipe" or "notice."

- *P&S Rule 5(d)(2)* regarding paragraphs. P&S Rule 5(d)(2) and its counterpart, DRB Rule 10(d)(2)(A), should use the same language. Currently, P&S Rule 5(d)(2) refers to prior or pending action based on or including the same "child," but DRB Rule 10(d)(2)(A) refers to any prior or pending action based on or including the same "claim or subject matter." One suggestion to resolve this discrepancy is to state for both the P&S and DRB Rule: "Prior or Pending Action. The last paragraph of a party's initial pleading must: (A) identify the court and docket number of any prior or pending action based on or including the same claim or subject matter or child."

7. Rule 6 (Disclosures; Additional Discovery; Initial Hearings)

We commend the Court for including these mandatory disclosures to ensure that accurate child support orders are entered in child support cases. The Court cannot enter accurate child support orders without this information. To ensure that all litigants involved in a child support case benefit from this rule, no matter what part of the Court the issue is being raised, this P&S Rule should also apply, including in DRB cases in which there is a request for child support.

The following revisions of P&S Rule 6 should also occur:

- *P&S Rule 6(a)(3)* regarding proof of other income and means-tested public benefits. The phrase "and any other source of income as defined in the Child Support Guideline" should be relocated. Temporary Assistance to Needy Families and Supplemental Security Income are not counted as "income" for child support purposes under the D.C. Child Support Guideline statute. However, including "and any other source of income" after those two types of means-tested public benefits in this rule may lead someone to incorrectly read the rule as stating that such benefits should count as "income" for purposes of child support. For greater clarity, we would encourage redrafting the rule to read as follows: "(3) proof of any other income as defined in the Child Support Guideline, as well as proof of means-tested public benefits, such as Unemployment Insurance, Workers' Compensation, Social Security Disability Insurance, Veterans Benefits, Temporary Assistance to Needy Families, and Supplemental Security Income."

- *P&S Rule 6(f)* regarding the initial hearing. We suggest replacing the word "explore" with the words "inquire about" and "review" as follows: "(1) In General. At the initial hearing, the judge or magistrate judge may: (A) inquire about the possibilities for early resolution through settlement or alternative dispute resolution or for expediting the case by use of stipulations; (B) review issues of service, notice, and identity of necessary parties and enter any appropriate orders regarding the same…."

8. Rule Regarding Default Adjudication of Parentage Order

Proposed DRB Rule 55(b)(2)(A) & (B) discusses the entry of a default when parentage has not yet been adjudicated. Since this DRB Rule is specific to parentage, this rule should also

be included in the P&S Rules (as modified pursuant to the above comment regarding DRB Rule 55).

Conclusion

We appreciate the Committee's consideration of these comments and recommendations, and we welcome an opportunity to make a presentation to the Committee on these matters, especially regarding the access to justice objectives that inform these comments.

Sincerely,

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