

OUTLINE OF DISTRICT OF COLUMBIA LAW

This is a basic outline of the District of Columbia law. The information contained herein is intended only as a general guide. The comments are not exhaustive and require explanation or clarification. Please do not rely on these comments as legal advice for any particular case or situation. Please consult an attorney for specific legal advice.

I. SERVICE AND EXTENSIONS OF RESPONSE TIME

A. Service on an individual may be made by mail or personal service. If the individual to be served is under 16, he or she must be served along with the person with whom he or she resides. There are a number of individuals who may accept service on behalf of a corporation including the officers, managing or general resident agent, and any other agent authorized to accept service. Service on the Mayor may be pursued if the corporation has failed to appoint a registered agent or if the registered agent cannot be located. Service is permitted against nonresidents under the long-arm statute in a manner prescribed in the jurisdiction in which service is to be made.

B. An action in which a defendant has not been served within 60 days from the date of issuance of original process will be dismissed without prejudice automatically by the clerk. Thus, filing proof of service within the allotted time is vital.

C. Once a defendant is served, an answer or motion must be filed within 20 days. Sup. Ct. Civ. R. 12(a). The 20-day rule applies to individuals served outside of the jurisdiction. The time for filing an answer may be extended once without seeking leave of court. To extend the time to answer, the defendant must file a praecipe which is signed by the plaintiff and defendant and which provides for an extension not exceeding 20 days. An extension may also be obtained by filing a motion.

II. SETTLEMENT MATTERS

LIENS: Must satisfy hospital lien where notified in writing. D.C. Code §40-202 (2012). Any person who makes payment to the patient or his attorneys without satisfying the lien is liable for amount of lien for one year. D.C. Code § 40-203 (2012).

WORKER'S

COMPLIEN: Statutory lien if the employee does not commence an action against liable third party. D.C. Code § 32-1535(b) (2001). In any event, D.C. does recognize an equitable lien in order to preclude double recovery. *See Travelers Ins. Co. v. Hayden*, 418 A.2d 1078, 1082-83 (D.C. 1980).

INTERPLEADER: Action for interpleader allows a person holding money or property to join in a single suit two or more defendants who claim or may claim to be entitled to the property in order to obtain a determination as to the rights of the various claimants. *See* Sup. Ct. Civ. R. 22.

**OFFERS OF
JUDGMENT:**

At any time more than 10 days prior to trial, defendant may serve offer to allow judgment to be taken in a specified amount with the costs then accrued. If the judgment finally obtained is not more favorable than the offer, the plaintiff must pay the costs incurred after making the offer. *See* Sup. Ct. Civ. R. 68.

**PREJUDGMENT/
POSTJUDGMENT**

INTEREST: Prejudgment interest can be awarded in actions to recover a liquidated debt at rate set by the contract. D.C. Code § 15-108 (2012). Post-judgment interest is recoverable in both tort and contract cases. D.C. Code § 15-109 (2012). Absent contractual provision to the contrary, the court cannot award interest greater than 70% of the rate of interest set by the Secretary of Treasury. D.C. Code § 28-3302 (2012).

**EFFECT OF
RELEASE:**

Can release one defendant and proceed against remaining defendants. Nonsettling defendant is entitled to *pro tanto* (dollar for dollar) credit for amount paid by settling defendants who are not joint tortfeasors. A *pro rata* credit is applied if settling defendant was joint tortfeasor. *George Washington Univ. v. Bier*, 946 A.2d 372, 375 (D.C. 2008); *Paul v. Bier*, 758 A.2d 40, 47-48 (D.C. 2000).

III. DAMAGES

NONECONOMIC

DAMAGES: There is no limitation on the recovery of noneconomic damages in D.C.

PUNITIVE

DAMAGES: Punitive damages are not recoverable where only ordinary negligence is shown. To recover punitives, plaintiff must prove by clear and convincing evidence that defendant acted with evil motive, actual malice, deliberate violence or oppression, or with intent to injure, or in willful disregard for the rights of the plaintiff AND that the defendant's conduct was outrageous, grossly fraudulent or reckless toward the safety of the plaintiff. *Woodner Co. v. Breeden*, 665 A.2d 929, 936-38 (D.C. 1995).

IV. DEFENSES

MANDATORY

COUNTERCLAIMS: A counterclaim is compulsory if it arises out of the same transaction or occurrence that is the subject of the opposing party's claim and does not require the presence of third parties of whom the court cannot acquire jurisdiction for full adjudication of the claim. Sup. Ct. Civ. R. 13(a).

PERMISSIVE

COUNTERCLAIMS: May be brought against the plaintiff but are not waived if not brought. Permissive counterclaims are limited to those within the court's jurisdiction. Sup. Ct. Civ. R. 13(b).

SUBSTANTIVE

DEFENSES: Strict contributory negligence, assumption of the risk, last clear chance doctrine.

CHARITABLE

IMMUNITY: Common law charitable immunity has been abolished. *See President & Directors of Georgetown College v. Hughes*, 130 F.2d 810, 827-28, 76 U.S. App. D.C. 123, 140-41 (D.C. Cir. 1942).

WORKERS'

COMPENSATION: Exclusive remedy against the employer unless the employer fails to secure payment of the compensation due.

SOVEREIGN

IMMUNITY: D.C. waived immunity for most tort claims provided there is written notice within six (6) months. Immunity has not been waived for discretionary acts of its employees.

- a. Public Duty doctrine – immune from suit for acts in performance of public duty function such as dispatching ambulances.
- b. Motor Vehicles –Must show “gross negligence” for emergency vehicles.

STATUTE OF LIMITATIONS:

Negligence	3 years
Survivorship action	3 years
Wrongful Death	2 year
Intentional Torts	1 year
-mayhem	
-assault	
-battery	
-libel	
-slander	
-malicious prosecution	
-false arrest	
-false imprisonment	
-wounding	

V. TRADE PRACTICES

BAD FAITH: D.C. has held that an insurer's inadvertent but unjustified failure to defend or settle shall be treated as a breach of contract and nothing more. *Gray v. Grain Dealers Mutual Ins. Co.*, 684 F. Supp. 1108, 1113 (D.D.C. 1988). Damages include the "adjudicated amount of the claim" plus the insured's defense costs in the underlying suit, attorney's fees incurred in a declaratory judgment action to determine the duty to defend, and any additional loss traceable to the breach. It does not appear that D.C. has been called upon to determine the carrier's liability "for judgments in excess of its insured's policy limits when the judgment results, in whole or in part, from some culpable act or omission of the carrier." *Id.*

CANCELLATION/

NONRENEWAL: Cancellation of auto policies permitted only for failure to pay premium and suspension or revocation of registration or license. See D.C. Code § 31-2409 (2012) for notice requirements.

DUTY TO

DEFEND: An insurer's duty to defend is measured by comparing the policy it issued with the complaint filed in the underlying case. The court examines the complaint for all plausible claims encompassed within the complaint and to ascertain whether the allegations of the complaint state a cause of action within the policy coverage and give fair notice to the insurer that the insured is being sued upon an occurrence which gives rise to a duty to defend under the terms of the policy. The obligation to defend is not affected by facts ascertained before suit or developed in the process of litigation or by the ultimate outcome of the suit.

VI. INFANT AND FAMILY MATTERS

INFANT CLAIMS: Suit initiated by guardian (parents or appointed individual).

SETTLEMENTS: A guardian of the estate of a minor must be appointed whenever a settlement over \$3,000.00 is executed. D.C. Code § 21-120 (2012).

INFANT

LIABILITY: There is no precise age at which a child can be held legally accountable for his or her actions. The test is whether the minor exercised reasonable care in light of his age, education and training.

PARENTAL

IMMUNITY: An unemancipated minor can bring claim against his parent in an automobile negligence action. *Rousey v. Rousey*, 528 A.2d 416, 420-21 (D.C. 1987).

SPOUSAL

IMMUNITY: D.C. has abolished spousal immunity. D.C. Code § 46-601 (2012).

LOSS OF

CONSORTIUM: Husband or wife can recover for loss of services or consortium of his or her spouse in a simple negligence case. *Stutsman v. Kaiser Found. Health Plan*, 546 A.2d 367, 372 (D.C. 1988). D.C. does not recognize a claim for loss of parent-child consortium. *District of Columbia v. Hawkins*, 782 A.2d 293, 303 (D.C. 2001).

VII. WRONGFUL DEATH ACTIONS

BROUGHT BY: Personal representative of the estate. D.C. Code § 16-2702 (2012). A personal representative is an executor or administrator of the estate.

STATUTE OF

LIMITATIONS: Two years after the date of death. D.C. Code § 16-2702 (2012).

DAMAGES: Damages are for the benefit of the spouse and next of kin. Pecuniary losses recoverable include present value of dependent's share of decedent's anticipated earnings, medical expenses and funeral costs. May also recover value of the services lost to the family including loss of care, comfort, education, training, advice and guidance as a result of the death. The statute does not permit recovery for noneconomic loss to the family members (compare to Maryland and Virginia statutes).

VIII. SURVIVAL ACTION

BROUGHT BY: The legal representative of the decedent. D.C. Code § 12-101 (2012). A legal representative may be any person who, by testamentary act or operation of law, stands in the shoes of the decedent with respect to her property.

DAMAGES: Damages are for the benefit of the estate. Estate is entitled to recover loss of decedent's prospective earnings and noneconomic damages for conscious pain and suffering suffered by the decedent prior to death. The statute does not permit recovery for noneconomic loss to the family members (compare to Maryland and Virginia statutes).

IX. AUTO BODILY INJURY CLAIMS

**VOLUNTARY
NO-FAULT AUTO**

INSURANCE: The purchase of PIP benefits is optional. D.C. Code § 31-2404 (2012). Insurers are required to offer optional PIP. *Id.* If PIP is provided, the insured may opt to accept PIP benefits with accompanying lawsuit restrictions or reject the benefits and proceed against the tortfeasor. D.C. Code § 31-2405 (2012).

**PRIORITY OF
PIP BENEFITS:**

- (1) victim's own PIP carrier
- (2) carrier for motor vehicle occupied by victim at time of accident

If 2 or more carriers are obligated to pay on an equal basis, carrier against which claim is first asserted processes and pays whole claim with right to pursue subrogation against other carriers. D.C. Code § 31-2407 (2012).

MINIMUM

POLICY LIMITS: \$25,000/\$50,000/\$10,000. D.C. Code § 31-2406(b)-(c) (2012).

MANDATORY

UNINSURED MOTORIST

COVERAGE:

Minimum mandatory coverage: \$25,000/\$50,000/\$5,000. D.C. Code § 31-2406(f) (2012).

Underinsurance: Optional. D.C. Code § 31-2406(c-1) (2012).

LOSS OF USE: Plaintiff can recover compensation for reasonable time that she was kept from using the property. *Brandon v. Capitol Transport Co.*, 71 A.2d 621, 622-23 (D.C. 1950).

X. VARIOUS SUBSTANTIVE MATTERS

COLLATERAL

SOURCE RULE: Applies in D.C. so that injured person can recover in full from wrongdoer regardless of whether he has been compensated from another source unconnected with Defendant. *Hardi v. Mezzanotte*, 818 A.2d 974, 984 (D.C. 2003).

NEGLIGENT

HIRING: Negligent hiring, supervision and/or retention are recognized causes of action. *See, e.g., Phelan v. City of Mount Rainier*, 805 A.2d 930, 936-37 (D.C. 2002).

PREMISES

LIABILITY: Distinction between status as invitee or licensee has been abolished. In general, duty of care owed is reasonable care under the circumstances. Trespassers are owed no duty except to refrain from willful or wanton injuries or entrapment. *Croce v. Hall*, 657 A.2d 307, 310 (D.C. 1995); *Sandoe v. Lefta Assocs.*, 559 A.2d 732, 742-43 (D.C. 1988).

EMOTIONAL

DISTRESS: Plaintiff can recover for negligent infliction of emotional distress if (1) there is physical injury; (2) plaintiff was in the zone of danger and feared for his life or (3) plaintiff was physically endangered. In the absence of physical injury, emotional injury must be serious and verifiable in order to recover. *Rice v. District of Columbia*, 774 F. Supp. 2d 25, 33 (D.D.C. 2011); *Jones v. Howard Univ., Inc.*, 589 A.2d 419, 424 (D.C. 1991).

XI. DISTRICT OF COLUMBIA COURT STRUCTURE AND APPEALS

A. SUPERIOR COURT

The Superior Court is the local court of general jurisdiction over any civil action or other matter brought in the District of Columbia. It is divided into separate judicial divisions including the Civil Division, Crime Victims Compensation Program, Criminal Division, Domestic Violence Unit, Family Court Operations Division, Family Court Social Services Division, Multi-Door Dispute Resolution Division, Office of the Auditor-Master, Probate Division, Special Operations Division, and Tax Division.

The Civil Division is further divided into 4 main branches: Civil Actions Branch; Quality Review Branch; Landlord and Tenant Branch; and Small Claims and Conciliation Branch (recovery up to \$5,000). The Civil Division is subdivided into three calendar types: Civil I (complex litigation); Civil II (general litigation); and collection and subrogation. Hearing commissioners are assigned to small claims, collection and subrogation cases.

B. DISTRICT OF COLUMBIA COURT OF APPEALS

The D.C. Court of Appeals (“DCCA”) is the highest court in D.C. The DCCA consists of a chief judge and eight associate judges, who typically hear cases in panels of three judges unless an en banc hearing is deemed necessary. Final Judgments of the Court are reviewable by the Supreme Court of the United States.

Generally, a party has the right to appeal a final order or judgment of the Superior Court. A Notice of Appeal must be filed within 30 days of the ruling appealed. Permission must be granted in order to appeal small claims and minor criminal matters. The DCCA also has jurisdiction to review administrative agency orders and decisions.