SUMMARY OF STATEMENT

The Section on Courts, Lawyers and the Administration of Justice supports the Small Claims Service of Process Act of 1993 introduced into the Council and suggests further amendments to D.C. Code § 16-3902 to streamline the service of process of small claims complaints.

COURTS, LAWYERS AND THE ADMINISTRATION OF JUSTICE SECTION

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June 17, 1994

The Honorable James A. Nathanson
Chair, Committee on the Judiciary
John A. Wilson Building - Room 108
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Small Claims Service of Process Act

Dear Chairman Nathanson:

The District of Columbia Bar's Section on Courts, Lawyers and the Administration of Justice, and the Section's Court Rules and Legislation Committees, submit these comments concerning the Small Claims Service of Process Act of 1993, Bill 10-89, to amend D.C. Code § 16-3902(g).[1] The proposed legislation would extend the period of time allowed for service of process in actions commenced in the Small Claims and Conciliation Branch of the Superior Court from fifteen (15) days to thirty (30) days.

The Section understands that the extension of time would assist the Superior Court in its management of small claims matters and afford plaintiffs and the court sufficient time to effectuate service. The Section supports the change proposed and passage of the Act.

In the course of considering the subject Bill, the Section understands that the Committee on the Judiciary has received comments suggesting additional changes to § 16-3902. The Section understand that those comments have criticized the necessity of obtaining an order appointing a special process server from the "Judge-in-Chambers" where service is sought by someone other than the United States Marshal and have also suggested that service be permitted by regular mail as provided in Rule 4(c)(2)(C)(i) of the Superior Court's Rules of Civil Procedure.

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1 The views expressed herein represent only those of the Courts, Lawyers and the Administration of Justice Section of the D.C. Bar and not those of the D.C. Bar or its Board of Governors.

1250 H Street, NW, Sixth Floor, Washington DC 20005-3908 202/626-3463 Sections Infoline 202/626-3455 FAX 202/626-3453

The Section believes that the policies in support of the rule authorizing the service of process by regular mail in the Civil Division do not apply to the Small Claims and Conciliation Branch of the Superior Court. The Clerk's Office serving the Small Claims Branch is currently primarily responsible for effecting service on defendants and has been effective in doing so by certified mail. Service of process by regular mail, as provided in the current Civil Division Rules, is inconsistent with the streamlined process afforded in the Small Claims Branch because the paperwork necessary for private service by first-class mail would not be completed by the date usually set for a matter before the court.

The Section has, however, been unable to discern sufficient policy or practical reasons for requiring the "Judge-in-Chambers," as distinct from the Clerk's Office serving the Small Claims and Conciliation Branch of the Superior Court, to authorize the use of a special process server. Whatever reasons support the need to obtain court approval of the use of a special process server can be accomplished by merely requiring that a plaintiff obtain such approval from a Clerk of the Court. Accordingly, the Section suggests that the Council amend the last clause of D.C. Code § 16-3902(a) to provide that the "mode of service shall be by * * * a person not a party to or otherwise interested in the action especially authorized by the Clerk of the Small Claims and Conciliation Branch or appointed by the judge for that purpose."

Sincerely yours,

Cochairs, Section on Courts,
Lawyers and the Administration
of Justice

- and -

Richard Nettler[2]
Chair, Legislation Committee of
the Section on Courts, Lawyers
and the Administration of
Justice

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2 Principal author