

Proposed Amendments to Rule 3

Rule 3 is amended as follows:

TITLE II. COMMENCING AN ACTION; AMENDING A SUMMONS; SERVICE OF SUMMONS, PLEADINGS, MOTIONS, AND ORDERS

Rule 3. Commencing an Action

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(h) Special Rule for Actions Described in 28 U.S.C. §1581(c).

When an action is commenced under 28 U.S.C. § 1581(c) to contest a determination listed in section 516A(a)(2) or (3) of the Tariff Act of 1930 by the administering authority and such a determination by the Commission, a party must file a separate summons and complaint with respect to each agency. Also, in an action described in 28 U.S.C. § 1581(c), when the plaintiff files the summons, attorneys for the plaintiff are required to comply with the procedures set forth in Rule **73.2(c)**~~74(e)~~ by filing of a Business Proprietary Information Certification where appropriate.

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PRACTICE COMMENT: As provided in Section 516A(a)(2) and (3) of the Tariff Act of 1930, a complaint **must**~~shall~~ be filed within 30 days after the filing of the summons. See *Georgetown Steel v. United States*, 801 F.2d 1308 (Fed. Cir. 1986).

Nevertheless, counsel are encouraged to commence any action described in Section 516A(a)(2) or (3) of the Tariff Act of 1930 and 28 U.S.C. § 1581(c) by the concurrent filing of a summons and complaint. This will serve to expedite the prosecution of the action.

When an action is commenced **by manual filing**,⁷ counsel should contact the Clerk's Office not more than 24 hours prior to filing to obtain a court number and **must**~~shall~~ endorse that court number on the summons and complaint. Counsel for plaintiff **will**~~shall~~ be responsible for service of the summons and complaint as prescribed

in Rules 4(b), (c), ~~(d)~~ and **(de)**. Under these circumstances, the clerk of the court will not make service of the summons as prescribed in Rule 4(a)(4).

PRACTICE COMMENT: As prescribed by Rule **5(d)**,~~5(e)~~, a summons or a summons and complaint may be filed by delivery, **by mailing**, or **electronically**. ~~by mailing~~. The filing is completed when received, except that when the method of mailing prescribed by Rule **5(e)**~~5(f)~~ is used, the summons or summons and complaint are deemed filed as of the date of mailing.

(As amended Nov. 4, 1981, eff. Jan. 1, 1982; July 21, 1986, eff. Oct. 1, 1986; Dec. 3, 1986, eff. Mar. 1, 1987; Sept. 25, 1992, eff. Jan. 1, 1993, Nov. 29, 1995, eff. Mar. 31, 1996; Aug. 29, 1997, eff. Nov. 1, 1997; May 27, 1998, eff. Sept. 1, 1998; Jan. 25, 2000, eff. May 1, 2000; Aug. 29, 2000, eff. Jan. 1, 2001; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 30, 2003, eff. Jan. 1, 2004; Sept. 28, 2004, eff. Jan. 1, 2005; Mar. 29, 2005, eff. Oct. 1, 2005; Nov. 29, 2005, eff. Jan. 1, 2006; Mar. 21, 2006, eff. Apr. 10, 2006; Nov. 25, 2008, eff. Jan. 1, 2009; _____, **2009, eff. _____, 2010.**)

Advisory Committee Note

The changes made to CIT Rule 3 are technical and stylistic only.