

Proposed Amendments to Rule 3

Rule 3 is amended as follows:

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

Rule 3. ~~Commencement of~~ **Commencing an** Action

(a) Commencement.

A civil action is commenced by filing with the clerk of the court:

(1) A summons in an action described in 28 U.S.C. § 1581(a) or

(b);

(2) A summons, and within 30 days thereafter a complaint, in an action described in 28 U.S.C. § 1581(c) to contest a determination listed in section 516A(a)(2) or (3) of the Tariff Act of 1930; or

(3) A summons and complaint concurrently in all other actions.

(b) Filing Fee.

When an action is commenced, ~~a~~ **the plaintiff must pay a** \$350 filing fee ~~shall be paid~~ to the clerk of the court, except that: ~~{ }~~

(1) **the plaintiff must pay** a \$150 filing fee ~~shall be paid~~ when the action ~~{ }~~ is one described in 28 U.S.C. § 1581(a); and

(2) **the plaintiff must pay** a \$25 filing fee ~~shall be paid~~ when the action is one described in 28 U.S.C. § 1581(d)(1).

(c) Complaint Fee.

When **filing** a complaint ~~is filed~~ in an action described in 28 U.S.C. § 1581(a), **the plaintiff must pay** a \$200 fee ~~shall be paid~~ to the clerk of the court.

(d) Information Statement.

When an action is commenced, the ~~party commencing the action shall~~**plaintiff must** file the original and a sufficient number of copies for service (when service is to be made by the ~~Office of the Clerk~~**clerk of the court**) of a completed Information Statement on the form shown in Form 5 in the Appendix of Forms.

(e) ~~Amendment of~~ **Amending a** Summons.

The court may allow a summons to be amended at any time, ~~in its discretion and upon~~ **on** such terms as it deems just, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the amendment is allowed.

(f) Notice to Interested Parties.

In an action described in 28 U.S.C. § 1581(c), the plaintiff, as provided in section 516A(d) of the Tariff Act of 1930, ~~shall~~**must** notify every interested party who was a party to the administrative proceeding of the commencement of the action, by mailing a copy of the summons at the time the action is commenced, or promptly thereafter, by certified or registered mail, return receipt requested, to each such party at the address last known in the administrative proceeding.

~~Upon~~ **When** filing ~~of~~ a complaint in an action described in 28 U.S.C. § 1581(c), the plaintiff ~~shall~~**must** promptly serve a copy of the complaint, by certified or registered mail, return receipt requested, on every interested party who was a party to the administrative proceeding at the address last known in that proceeding.

(g) Precedence of Action.

Unless the court, ~~upon~~**on** motion for good cause or ~~upon~~**on** its own

[initiative], determines otherwise in a particular action, the following actions ~~[shall]~~**will** be given precedence, in the following order, over other actions pending before the court, and expedited in every way:

- (1) An action seeking temporary or preliminary injunctive relief;
 - (2) An action involving the exclusion of perishable merchandise or redelivery of such merchandise;
 - (3) An action described in 28 U.S.C. § 1581(c) to contest a determination under section 516A of the Tariff Act of 1930;
 - (4) An action described in 28 U.S.C. § 1581(a) to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930, involving the exclusion or redelivery of merchandise;
 - (5) An action described in 28 U.S.C. § 1581(b) to contest a decision of the Secretary of the Treasury under section 516 of the Tariff Act of 1930.
 - (6) Any other action ~~[which]~~**that** the court determines, based ~~[upon]~~**on** motion and for good cause shown, warrants expedited treatment.
- (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 ~~[shall]~~**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 71(c) by filing of a Business Proprietary Information Certification where appropriate.

(i) Disclosure Statement.

A disclosure statement as provided by Form 13 ~~[shall]~~**must** be filed by every party to an action, including parties seeking or permitted to intervene, and for each *amicus curiae*. The disclosure statement must be filed with the entry of appearance (or with the summons if no separate notice of appearance is required). If any of the information required changes after the disclosure statement is filed, and before a final judgment is issued, the party or *amicus curiae* must promptly file an amended disclosure statement.

(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; _____, 2008, eff. _____, 2009.)

Advisory Committee Note

The language of Rule 3 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules.