

Proposed Amendments to Rule 5

Rule 5 is amended as follows:

Rule 5. Serving and Filing Pleadings and Other Papers

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(b) Service: How Made.

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(2) Service in General. A paper is served under this rule by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or

(ii) if the person has no office or the office is closed, at the person's house or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last known address – in which event service is complete upon mailing;

~~(D) delivering it by overnight delivery service to the last known address of the person served – in which event service is complete upon deposit of the paper enclosed in a properly addressed wrapper into the custody of the overnight delivery service for overnight delivery, prior to the latest time designated by such service for overnight delivery. "Overnight delivery service"~~

~~means any delivery service that regularly accepts items for overnight delivery. “Overnight delivery service” does not include any service provided by the U.S. Postal Service (including express, priority or other expedited service), which is to be considered “mail” under subparagraph (C);~~

(~~E~~**D**) leaving it with the clerk of the court if the person has no known address;

(~~F~~**E**) sending it to a registered user by filing it with the court’s electronic filing system or sending it by other electronic means that the person consented to in writing – in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or

(~~G~~**F**) delivering it by any other means by which the person consented in writing – in which event service is complete when the person making service delivers it to the agency designated to make delivery.

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(As amended, eff. Jan. 1, 1982; Oct. 3, 1984, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Oct. 3, 1990, eff. Jan. 1, 1991; Nov. 29, 1995, eff. Mar. 31, 1996; Nov. 14, 1997, eff. Jan. 1, 1998; May 27, 1998, eff. Sept. 1, 1998; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 30, 2003, eff. Jan. 1, 2004; Sept. 28, 2004, eff. Jan. 1, 2005; Nov. 29, 2005, eff. Jan. 1, 2006; Nov. 25, 2008, eff. Jan. 1, 2009; Nov. 25, 2009, eff. Jan. 1, 2010; Dec. 6, 2011, eff. Jan. 1, 2012; Dec. 4, 2012, eff. Jan. 1, 2013; May 20, 2014, eff. July 1, 2014; Dec. 22, 2014, eff. Jan. 28, 2015; June 5,

2015, eff. July 1, 2015; Sept. 21, 2016, eff. Oct. 3, 2016; Mar. 20, 2018, eff. Apr. 23, 2018; Oct. 1, 2020, eff. Dec. 1, 2020; _____, 2021, eff. _____, 2021.)

Advisory Committee Note

These amendments to delete current version of USCIT Rule 5(b)(2)(D) providing for overnight delivery to the last known address is no longer necessary in view of the electronic service system and USCIT Rule 5(b)(2)(C) which allows for mailing to the last known address of the person served. Deleting USCIT Rule 5(b)(2)(D) requires the re-lettering of the current version of USCIT Rule 5(b)(2)(E) to USCIT Rule 5(b)(2)(D), current version of USCIT Rule 5(b)(2)(F) to USCIT Rule 5(b)(2)(E) and current version of USCIT Rule 5(b)(2)(G) to USCIT Rule 5(b)(2)(F) will conform this rule to the current version of the Federal Rule of Civil Procedure.