

1 Rule 5. Service and filing of pleadings and other papers.

2 (a) Service: When required.

3 (a)(1) Except as otherwise provided in these rules or as otherwise directed by the
4 court, every judgment, every order required by its terms to be served, every pleading
5 subsequent to the original complaint, every paper relating to discovery, every written
6 motion other than one heard ex parte, and every written notice, appearance, demand,
7 offer of judgment, and similar paper shall be served upon each of the parties.

8 (a)(2) No service need be made on parties in default except that:

9 (a)(2)(A) a party in default shall be served as ordered by the court;

10 (a)(2)(B) a party in default for any reason other than for failure to appear shall be
11 served with all pleadings and papers;

12 (a)(2)(C) a party in default for any reason shall be served with notice of any hearing
13 necessary to determine the amount of damages to be entered against the defaulting
14 party;

15 (a)(2)(D) a party in default for any reason shall be served with notice of entry of
16 judgment under Rule 58A(d); and

17 (a)(2)(E) pleadings asserting new or additional claims for relief against a party in
18 default for any reason shall be served in the manner provided for service of summons in
19 Rule 4.

20 (a)(3) In an action begun by seizure of property, ~~whether through arrest, attachment,~~
21 ~~garnishment or similar process,~~ in which no person ~~need be or~~ is named as defendant,
22 any service required to be made prior to the filing of an answer, claim or appearance
23 shall be made upon the person having custody or possession of the property at the time
24 of its seizure.

25 (b) Service: How made ~~and by whom~~.

26 (b)(1) ~~Whenever under these rules service is required or permitted to be made upon~~
27 ~~if~~ a party is represented by an attorney, ~~the~~ service shall be made upon the attorney
28 unless service upon the party is ordered by the court. If an attorney has filed a Notice of
29 Limited Appearance under Rule 75 and the papers being served relate to a matter
30 within the scope of the Notice, service shall be made upon the attorney and the party.
31 ~~Service upon the attorney or upon a party shall be made by delivering a copy or by~~

32 ~~mailing a copy to the last known address or, if no address is known, by leaving it with~~
33 ~~the clerk of the court.~~

34 ~~(b)(1)(A) Delivery of a copy within this rule means: Handing it to the attorney or to~~
35 ~~the party; or leaving it at the person's office with a clerk or person in charge thereof; or,~~
36 ~~if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is~~
37 ~~closed or the person to be served has no office, leaving it at the person's dwelling~~
38 ~~house or usual place of abode with some person of suitable age and discretion then~~
39 ~~residing therein; or, if consented to in writing by the person to be served, delivering a~~
40 ~~copy by electronic or other means. If a hearing is scheduled 5 days or less from the~~
41 ~~date of service, the party shall use the method most likely to give prompt actual notice~~
42 ~~of the hearing. Otherwise, a party shall serve a paper under this rule:~~

43 ~~(b)(1)(A)(i) upon any person with an electronic filing account who is a party or~~
44 ~~attorney in the case by submitting the paper for electronic filing;~~

45 ~~(b)(1)(A)(ii) by sending it by email to the person's last known email address if that~~
46 ~~person has agreed to accept service by email;~~

47 ~~(b)(1)(A)(iii) by faxing it to the person's last known fax number if that person has~~
48 ~~agreed to accept service by fax;~~

49 ~~(b)(1)(A)(iv) by mailing it to the person's last known address;~~

50 ~~(b)(1)(A)(v) by handing it to the person;~~

51 ~~(b)(1)(A)(vi) by leaving it at the person's office with a person in charge or leaving it in~~
52 ~~a receptacle intended for receiving deliveries or in a conspicuous place; or~~

53 ~~(b)(1)(A)(vii) by leaving it at the person's dwelling house or usual place of abode with~~
54 ~~a person of suitable age and discretion then residing therein.~~

55 ~~(b)(1)(B) Service by mail, email or fax is complete upon mailing sending. Service by~~
56 ~~electronic means is not effective if the party making service learns that the attempted~~
57 ~~service did not reach the person to be served. If the paper served is notice of a hearing~~
58 ~~and if the hearing is scheduled 5 days or less from the date of service, service shall be~~
59 ~~by delivery or other method of actual notice. Service by electronic means is complete on~~
60 ~~transmission if transmission is completed during normal business hours at the place~~
61 ~~receiving the service; otherwise, service is complete on the next business day.~~

62 ~~(b)(2) Unless otherwise directed by the court:~~

63 (b)(2)(A) an order signed by the court and required by its terms to be served or a
64 judgment signed by the court shall be served by the party preparing it;

65 (b)(2)(B) every other pleading or paper required by this rule to be served shall be
66 served by the party preparing it; and

67 (b)(2)(C) an order or judgment prepared by the court shall be served by the court.

68 (c) Service: Numerous defendants. In any action in which there is an unusually large
69 number of defendants, the court, upon motion or of its own initiative, may order that
70 service of the pleadings of the defendants and replies thereto need not be made as
71 between the defendants and that any cross-claim, counterclaim, or matter constituting
72 an avoidance or affirmative defense contained therein shall be deemed to be denied or
73 avoided by all other parties and that the filing of any such pleading and service thereof
74 upon the plaintiff constitutes ~~due~~ notice of it to the parties. A copy of every such order
75 shall be served upon the parties in such manner and form as the court directs.

76 (d) Filing. All papers after the complaint required to be served upon a party shall be
77 filed with the court either before or within a reasonable time after service. The papers
78 shall be accompanied by a certificate of service showing the date and manner of service
79 completed by the person effecting service. Rule 26(i) governs the filing of papers related
80 to discovery.

81 (e) Filing with the court defined. ~~The filing of pleadings and other papers with the~~
82 ~~court as required by these rules shall be made by filing them with the clerk of the court,~~
83 ~~except that the judge may accept the papers, note thereon the filing date and forthwith~~
84 ~~transmit them to the office of the clerk. A party may file with the clerk of court using any~~
85 ~~means of delivery permitted by the court. The court may require parties to file~~
86 ~~electronically with an electronic filing account. Filing is complete upon acceptance by~~
87 ~~the clerk of court. The clerk shall note the date of acceptance on the paper. The judge~~
88 ~~may accept papers, shall note the date of acceptance on the papers, and shall transmit~~
89 ~~them to the clerk of court.~~

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