

Public Law 97-462
97th Congress

An Act

To amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.

Jan. 12, 1983
[H.R. 7154]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Rules of Civil Procedure Amendments Act of 1982".

Federal Rules of
Civil Procedure
Amendments
Act of 1982.
28 USC 2071
note.
28 USC app.

SEC. 2. The Federal Rules of Civil Procedure are amended as follows:

(1) Rule 4(a) of such Rules is amended by striking out "it for service to the marshal or to any other person authorized by Rule 4(c) to serve it" and inserting in lieu thereof "the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint".

(2) Subsection (c) of Rule 4 of such Rules is amended to read as follows:

"(c) SERVICE.

"(1) Process, other than a subpoena or a summons and complaint, shall be served by a United States marshal or deputy United States marshal, or by a person specially appointed for that purpose.

"(2)(A) A summons and complaint shall, except as provided in subparagraphs (B) and (C) of this paragraph, be served by any person who is not a party and is not less than 18 years of age.

"(B) A summons and complaint shall, at the request of the party seeking service or such party's attorney, be served by a United States marshal or deputy United States marshal, or by a person specially appointed by the court for that purpose, only—

"(i) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916,

"(ii) on behalf of the United States or an officer or agency of the United States, or

"(iii) pursuant to an order issued by the court stating that a United States marshal or deputy United States marshal, or a person specially appointed for that purpose, is required to serve the summons and complaint in order that service be properly effected in that particular action.

"(C) A summons and complaint may be served upon a defendant of any class referred to in paragraph (1) or (3) of subdivision (d) of this rule—

"(i) pursuant to the law of the State in which the district court is held for the service of summons or other like process upon such defendant in an action brought in the courts of general jurisdiction of that State, or

"(ii) by mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to

be served, together with two copies of a notice and acknowledgment conforming substantially to form 18-A and a return envelope, postage prepaid, addressed to the sender. If no acknowledgment of service under this subdivision of this rule is received by the sender within 20 days after the date of mailing, service of such summons and complaint shall be made under subparagraph (A) or (B) of this paragraph in the manner prescribed by subdivision (d)(1) or (d)(3).

“(D) Unless good cause is shown for not doing so the court shall order the payment of the costs of personal service by the person served if such person does not complete and return within 20 days after mailing, the notice and acknowledgment of receipt of summons.

“(E) The notice and acknowledgment of receipt of summons and complaint shall be executed under oath or affirmation.

“(3) The court shall freely make special appointments to serve summonses and complaints under paragraph (2)(B) of this subdivision of this rule and all other process under paragraph (1) of this subdivision of this rule.”.

(3) Rule 4(d) of such Rules is amended—

(A) by striking out “SUMMONS: PERSONAL SERVICE” and inserting “SUMMONS AND COMPLAINT: PERSON TO BE SERVED” in lieu thereof; and

(B) by striking out paragraph 7.

(4) Rule 4(d)(5) of such Rules is amended—

(A) by striking out “delivering” and inserting “sending” in lieu thereof, and

(B) by inserting “by registered or certified mail” after “complaint”.

(5) Rule 4(e) of such Rules is amended by striking out “SAME” and inserting “SUMMONS” in lieu thereof.

(6) Subdivision (g) of Rule 4 of such Rules is amended to read as follows:

“(g) RETURN. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or deputy United States marshal, such person shall make affidavit thereof. If service is made under subdivision (c)(2)(C)(ii) of this rule, return shall be made by the sender’s filing with the court the acknowledgment received pursuant to such subdivision. Failure to make proof of service does not affect the validity of the service.”.

(7) Rule 4 of such Rules is amended by adding at the end the following:

“(j) SUMMONS: TIME LIMIT FOR SERVICE. If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court’s own initiative with notice to such party or upon motion. This subdivision shall not apply to service in a foreign country pursuant to subdivision (i) of this rule.”.

SEC. 3. The Appendix of Forms at the end of the Federal Rules of Civil Procedure is amended by inserting after Form 18 the following:

"FORM 18-A.—NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL.

"United States District Court for the Southern District of New York

is return benefit "Civil Action, File Number _____

"A. B., Plaintiff }
 v. } Notice and Acknowledgment of Receipt of Summons and
 "C. D., Defendant } Complaint

"NOTICE

"To: (insert the name and address of the person to be served.)

"The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

"You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

"You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

"If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

"If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

"I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on (insert date).

" _____
 Signature

" _____
 Date of Signature

"ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

"I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned manner at (insert address).

" _____
Signature

" _____
Relationship to Entity/Authority to
Receive Service of Process

" _____
Date of Signature".

Effective date.
28 USC 2071
note.
28 USC 2071
note.

SEC. 4. The amendments made by this Act shall take effect 45 days after the enactment of this Act.

SEC. 5. The amendments to the Federal Rules of Civil Procedure, the effective date of which was delayed by the Act entitled "An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure", approved August 2, 1982 (96 Stat. 246), shall not take effect.

SEC. 6. Section 951 of title 18, United States Code, is amended by striking out "\$5,000" and inserting in lieu thereof "\$75,000".

Approved January 12, 1983.

LEGISLATIVE HISTORY—H.R. 7154:

CONGRESSIONAL RECORD, Vol. 128 (1982):

- Dec. 15, considered and passed House.
- Dec. 19, considered and passed Senate, amended.
- Dec. 20, House agreed to Senate amendment with an amendment.
- Dec. 21, Senate concurred in House amendment.