

AMENDMENTS TO THE FEDERAL RULES
OF CIVIL PROCEDURE

Rule 4. Process.

(a) *Summons Issuance.*—Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to the plaintiff or his attorney. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

(c) *By whom served.*

(1) Service of a summons and complaint shall be made by any person who is not a party and is not less than 18 years of age except as provided in subdivision (c)(2) of this rule.

(2) At the request of a party, service of a summons and complaint shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose—

(A) 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,

(B) pursuant to any statutory provision expressly providing for service by a United States marshal or his deputy, and

(C) pursuant to any order issued by the court stating that service in that particular action is required to be made by a United States marshal, deputy, or special appointee in order to guarantee that service is properly effected.

(3) Service of all other process shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose.

(4) The plaintiff or his attorney shall be responsible for making arrangements for prompt service. Special appointments to serve process shall be made freely.

(d) *Summons and complaint: Personal service and service by mail.*—The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(7) For service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if the summons and complaint are served in the manner prescribed by any statute of the United States or in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state; except that a summons and complaint served by mail may be served only as authorized by and pursuant to the procedures set forth in paragraph (8) of this subdivision of this rule.

(8) Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a United States marshal or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. If delivery of the process is refused, the person serving the process, promptly upon the receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person.

(e) *Same: Service upon party not inhabitant of or found within state.*—Whenever a statute of the United States or an order of court thereunder provides for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state in which the district court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to him to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of his property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule; except that service by mail must be made pursuant to the procedures set forth in paragraph (8) of subdivision (d) of this rule.

(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 his deputy, he shall make affidavit thereof. If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope if and when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service mailed to the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become part of the record. Failure to make proof of service does not affect the validity of the service.

(j) *Summons: Time limit for service.*—If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative. If service is made by mail pursuant to Rule 4(d)(8), service shall be deemed to have been made for the purposes of this provision as of the date on which the process was accepted, refused, or returned as unclaimed. This subdivision shall not apply to service in a foreign country pursuant to Rule 4(i).