

Rules of Probate Procedure

Rule 5. Service and Filing of Pleadings and Other Papers

(a) **Service: when required.** Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, inventory and similar paper shall be served upon each of the parties who have appeared. No service need be made on parties who have not appeared, except that:

(1) Service shall be made pursuant to this rule on the person, specified in Rule 5.1;

(2) Service shall be made on an executor or administrator pursuant to this rule in a proceeding involving a decedent's estate;

(3) Service shall be made on a trustee pursuant to this rule in a proceeding involving a trust;

(4) Service shall be made on a guardian and, unless otherwise ordered by the court, on a ward pursuant to this rule in a proceeding involving a guardian or proposed guardian of the person or estate;

(5) Service shall be made on a person who is representing the interests of another pursuant to Rule 18; and

(6) Service shall be made on the Veterans Administration pursuant to this rule when required by law.

(b) **Same: how made.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to the party or attorney or by mailing it to the last known address of the party or attorney or, if no address is known, by leaving it with the register. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the office of the attorney or party with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

(c) **Same: numerous parties.** In any proceeding in which there are unusually large numbers of parties with similar interests, the court, upon motion or of its own initiative, may order that service of the pleadings of those parties and replies thereto need not be made as between those parties and that the filing of any such pleading and service thereof upon the petitioner constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) **Filing.** All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter.

(e) **Proof of service.** Proof of service shall be made by filing with the court a certificate of service stating the name and address of each party or attorney served, the date of service, and the manner of service.

(f) **Filing with the court defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the register or the judge.

(g) **Form of papers.** All original papers shall be eight and one-half by eleven inches in size, endorsed with the name and docket number of the proceeding, the court and probate district where pending, the name of the paper, and the name and address of the person or attorney filing it. Parties must use applicable official forms contained in these rules unless otherwise permitted by the court.

(h) **Social Security Numbers.** Before filing any paper containing the social security number of any person, the filer shall redact the social security number unless the social security number is specifically requested by the court.

Amended May 14, 1986, eff. July 1, 1986; Oct. 25, 2000, eff. Jan. 1, 2001.