

West's Tennessee Code Annotated
State and Local Rules Selected from West's Tennessee Rules of Court
Tennessee Rules of Civil Procedure
Rule 5. Service and Filing of Pleadings and Other Papers

Rules Civ.Proc., Rule 5.02

Rule 5.02. Service; How Made

Currentness

Whenever under these rules service is required or permitted to be made on 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 shall be made pursuant to the methods set forth in (1) or (2). If an attorney has filed a notice of limited scope representation or a notice of limited appearance for an otherwise self-represented person, pursuant to [Rule 11.01\(b\)](#), service shall be made on the self-represented person and on the attorney until such time as a notice of completion of limited scope representation has been filed. After notice of completion of limited scope representation has been filed, service upon the attorney previously providing limited scope representation shall no longer be necessary.

(1) Service upon the attorney or upon a party shall be made by delivering to him or her a copy of the document to be served, or by mailing it to such person's last known address, or if no address is known, by leaving the copy with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at such person's office with a clerk or other person in charge thereof; or, if there is none 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. Items which may be filed by facsimile transmission pursuant to Rule 5A may be served by facsimile transmission.

(2)(a) Service upon any attorney may also be made by sending him or her the document in Adobe PDF format to the attorney's email address, which shall be promptly furnished on request. The sender shall include language in the subject line designed to alert the recipient that a document is being served under this rule. On the date that a document served under this rule is electronically sent to an attorney, the sender shall send by mail, facsimile or hand-delivery a certificate that advises that a document has been transmitted electronically. The certificate shall state the caption of the action; the trial court file number; the title of the transmitted document; the number of pages of the transmitted document (including all exhibits thereto); the sender's name, address, telephone number and electronic mail address; the electronic mail address of each recipient; and the date and time of the transmission. The certificate shall also include words to this effect: "If you did not receive this document, please contact the sender immediately to receive an electronic or physical copy of this document." The certificate shall be sent to all counsel of record.

(b) An attorney who sends a document to another attorney electronically and who is notified that it was not received must promptly furnish a copy of the document to the attorney who did not receive it.

(c) A document transmitted electronically shall be treated as a document that was mailed for purposes of computation of time under Rule 6.

(d) For good cause shown, an attorney may obtain a court order prohibiting service of documents on that attorney by electronic mail and requiring that all documents be served under subsection (1).

Credits

[Amended effective July 1, 1991; July 1, 2004; July 1, 2010; July 1, 2012.]

Editors' Notes

ADVISORY COMMISSION COMMENT

Rule 5 requires service of pleadings filed subsequent to the original complaint, orders, written motions, discovery papers, and other papers, upon each of the parties. Exceptions are made with respect to motions which may be heard ex parte (Rule 5.01), and with respect to pleadings filed by various defendants when the court orders that, because of numerous defendants, pleadings need not be served as between defendants (Rule 5.04). The Rule spells out the details of how service shall be made, and provides that proof of service is accomplished by certificate of a member of the bar, or by affidavit of the person serving the copy, or by other proof satisfactory to the court. The details set out in the Rule are designed to give every reasonable assurance that a copy of the pertinent papers in the suit actually reach adversary parties through their counsel or directly.

The Rule provides that copies need not be served on parties adjudged in default for failure to appear; but if the pleadings assert new or additional claims for relief against such parties in default, copies must be served upon the parties. Rule 55 sets out the circumstances and procedures for entering judgment by default for failure to appear.

[Comment amended effective May 17, 2005.]

ADVISORY COMMISSION COMMENT TO 2004 AMENDMENT

An additional method of service of pleadings and other papers, by facsimile transmission, is limited by the conditions in Rule 5A on filing by facsimile. For example, such service is limited to those documents which may be filed by facsimile transmission. Also, the sender bears the risk of ineffective transmission.

ADVISORY COMMISSION COMMENT TO 2010 AMENDMENT

The Commission is aware that many attorneys serve documents on one another electronically but, because the current rule does not provide electronic service is sufficient service, also send a paper copy of the document. This rule change is designed to allow attorneys to accomplish service of pleadings and other papers electronically without the need to send a physical copy.

The requirement that the sender shall include language in the subject line designed to alert the recipient that a document is being served under this rule is intended to reduce the possibility that the recipient might overlook the service of a document. Words in the subject line to the effect of "TRCP Rule 5 Service of Document in *Smith v. Jones*" are sufficient.

Adobe PDF was chosen as the format because it is required for federal court filings and virtually all attorneys have ready access to it. Of course, the parties may stipulate to the use of a different format.

The mailing or hand delivery of a certificate was included out of concern, well-founded or not, that an email transmitting a document could be lost in cyberspace. The certificate requirement puts the receiving attorney on notice that a document has been sent and, if the document was not received, will allow that attorney to initiate a process for promptly obtaining a copy of it.

The rule provides a mechanism for a court to order, for good cause shown, that electronic service of pleadings and papers not be permitted in a particular case.

ADVISORY COMMISSION COMMENT TO 2012 AMENDMENT

The first paragraph of Rule 5.02 is amended to address service of pleadings and other papers in cases in which an attorney has filed a notice of limited scope representation or a notice of limited appearance for an otherwise self-represented person, pursuant to [Rule 11.01\(b\)](#).

[Notes of Decisions \(5\)](#)

Rules Civ. Proc., Rule 5.02, TN R RCP Rule 5.02
Current with amendments received through 2/15/14

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