

Rule 25. Methods of Filing and Service

25.01 Types of Filing

Subdivision 1. Generally; Electronic Filing. When a document is required to be filed electronically through the E-Filing System, the document shall be filed in accordance with Rule 14 of the General Rules of Practice for the District Courts. Otherwise, any document may be filed with the court personally, by U.S. mail, electronically through the E-Filing System, or by facsimile transmission.

Subd. 2. Filing by Facsimile Transmission. Any document not required to be filed electronically through the E-Filing System may be filed with the court by facsimile transmission. Filing shall be deemed complete at the time the facsimile transmission is received by the court. The facsimile shall have the same force and effect as the original. Only facsimile transmission equipment that satisfies the published criteria of the Supreme Court shall be used for filing in accordance with this rule.

Subd. 3. Fees; Original Document. Within five (5) days after the court has received the facsimile transmission, the party filing the document shall forward the following to the court:

- (a) a \$25 transmission fee for each 50 pages, or part thereof, of the filing, unless otherwise provided by statute or rule or otherwise ordered by the court;
- (b) any bulky exhibits or attachments; and
- (c) the applicable filing fee or fees, if any.

If a document is filed by facsimile, the sender's original must not be filed but must be maintained in the files of the party transmitting it for filing and made available to the court or any party to the action upon request.

Subd. 4. Noncompliance. Upon failure to comply with the requirements of this rule, the court may make such orders as are just including, but not limited to, an order striking pleadings or parts thereof, staying further proceedings until compliance is complete, or dismissing the adoption matter, proceeding, or any part thereof.

(Amended effective January 1, 2007; amended effective September 1, 2012; amended effective July 1, 2015.)

25.02 Types of Service

Subdivision 1. Personal Service. Personal service means personally delivering the document to the person to be served or leaving it at the person's home or usual place of abode with a person of suitable age and discretion residing therein. Unless otherwise provided by these rules or ordered by the court, the sheriff or other person at least 18 years of age and not a party to the action may make personal service of a summons or other process. Any social services reports or guardian ad litem reports may be served directly by the social worker and guardian ad litem. Whenever personal service is required under these rules, the court may authorize alternative personal service pursuant to Rule 25.02, subdivision 5.

Service Outside United States. Unless otherwise provided by law, service upon an individual, other than an infant or an incompetent person, may be effected in a place outside the United States:

- (1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(a) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(b) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(c) unless prohibited by the law of the foreign country, by:

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the court administrator to the person to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

Subd. 2. U.S. Mail. Service by U.S. mail means placing the document in the U.S. mail, first class, postage prepaid, addressed to the person to be served.

Subd. 3. Publication. Service by publication substitutes for personal service when authorized by the court. Service by publication means the publication in full of the summons, notice of hearing, or other documents in the regular issue of a qualified newspaper, once each week for the number of weeks specified pursuant to Rule 31.04, subdivision 2. The court shall authorize service by publication only if the petitioner has filed a written statement or affidavit describing diligent efforts to locate the person to be served. Service by publication shall be completed by the petitioner in a location approved by the court. The published summons shall be directed to the person for whom personal service was not accomplished and shall not include the child's name or initials. In cases involving an Indian child, if the identity or location of the parent or Indian custodian and the child's Indian tribe cannot be determined, the summons and petition shall be served upon the Secretary of the Interior pursuant to 25 U.S.C., section 1912.

Subd. 4. Electronic Service. When authorized or required by Rule 14 of the General Rule of Practice, documents, except those required by these rules to be served personally or by registered U.S. mail return receipt requested, may, or where required, shall be served electronically by following the procedures of that rule and will be deemed served in accordance with the provisions of that rule.

Subd. 5. Waiver of Personal Service. (a) Waivers of personal service may be made by mailing by first-class U.S. mail, postage prepaid to the person to be served, a copy of the document to be served together with two copies of a notice and waiver of service by mail conforming substantially to a form to be developed by the State Court Administrator, along with a return envelope, postage prepaid, addressed to the sender.

(b) Any person served by U.S. mail who receives a notice and waiver of service by mail form shall, within 20 days of the date the notice and waiver form is mailed, complete the waiver part of the form and return one copy of the completed form to the serving party.

(c) If the serving party does not receive the completed waiver form within 20 days of the date it is mailed, service is not valid upon that party. The serving party shall then serve the document by any means authorized under this rule.

(d) The court may order the costs of personal service to be paid by the person served, if such person does not complete and return the notice and waiver form within 20 days of the date it is mailed.

(Amended effective January 1, 2004; amended effective January 1, 2007; amended effective September 1, 2012; amended effective July 1, 2015; amended effective September 1, 2019.)

25.03 Service by Electronic Means

Unless these rules require personal service or service through the E-Filing System, any document may be served by e-mail or other electronic means upon written or on the record agreement of the person to be served.

(Amended effective July 1, 2015.)

2015 Advisory Committee Comment

Rule 25.03 authorizes service by "electronic means." Pursuant to Rule 14.01(a)(7) of the General Rules of Practice for the District Courts, "electronic means" is defined as "transmission using computers or similar means of transmitting documents electronically, including facsimile transmission." Because "electronic means" includes "facsimile transmission," the reference in Rule 25.03 to "facsimile transmission" has been deleted.

25.04 Service Upon Counsel; Social Services Agency

Unless personal service upon a party is required, service upon counsel for a party shall be deemed service upon the party. Service upon the county attorney shall be deemed to be service upon the responsible social services agency.

25.05 Service of Subpoena

A subpoena requiring the attendance of a witness at a hearing or trial may be served upon the witness at any place within the state.

25.06 Completion of Service

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing to the last known address of the person to be served. Completion of service by electronic means is governed by Rule 14.03(e) of the Minnesota Rules of General Practice for the District Courts.

(Amended effective July 1, 2015.)

2015 Advisory Committee Comment

With respect to completion of service, Rule 14.03(e) of the General Rules of Practice for the District Courts provides "service is complete upon completion of the electronic transmission of the document to the E-Filing System notwithstanding whether the document is subsequently rejected for filing by the court administrator. Service by facsimile transmission, where authorized, is complete upon the completion of the facsimile transmission." Similar to service by U.S. mail, which is complete when sent rather than when received, the intent of Rule 25.06 is that service through the E-Filing System is complete when the document is transmitted to the E-Filing System and service by e-mail is complete when the e-mail is sent.

25.07 Proof of Service

On or before the date set for appearance, the person serving the document shall file with the court an affidavit of service stating:

- (a) whether the document was served;
- (b) how the document was served;
- (c) the person on whom the document was served; and
- (d) the date, time, and place of service.

If the court administrator served the document, the court administrator may file a written statement in lieu of an affidavit.