

Rule 355. Methods of Service; Filing**Rule 355.01 Generally**

Subdivision 1. Service Required. Except for ex parte motions allowed by statute or these rules, every document filed with the court shall be served on all parties and the county agency.

Subd. 2. Service Upon Attorney for Party. If a party, other than the county agency, is represented by an attorney as shown by a certificate of representation in the court file, service shall be made upon the party's attorney, unless personal service upon the represented party is required under these rules. Except where personal service upon the county agency is required under these rules, service upon the county agency shall be accomplished by serving the county attorney.

(Amended effective July 1, 2015.)

Rule 355.02 Types of Service**Subdivision 1. Personal Service.****(a) Upon Whom.**

(1) Upon an Individual. Personal service upon an individual in the state shall be accomplished by delivering a copy of the summons and complaint, notice, motion, or other document to the individual personally or by leaving a copy at the individual's house or usual place of residence with some person of suitable age and discretion who presently lives at that location. If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service, or if a statute designates a state official to receive service, service may be made in the manner provided by such statute. If the individual is confined to a state institution, personal service shall be accomplished by also serving a copy of the document upon the chief executive officer at the institution. Personal service upon an individual outside the state shall be accomplished according to the provisions of Minnesota Statutes 2000, chapter 518C, and Minnesota Statutes 2000, section 543.19. Personal service may not be made on a legal holiday or election day.

(2) Upon the County Agency. Personal service upon the county agency shall be accomplished by serving the director of the county human services department or the director's designee.

(b) By Whom Served. Unless otherwise ordered by the child support magistrate, personal service shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on parties.

(c) Alternative Personal Service.

(1) Admission or Acknowledgment or Waiver of Service. Service may be accomplished when the party to be served signs an admission or waives service as provided in Minn. R. Civ. P. 4.05.

(2) Service by Publication.

(A) Service. Service by publication means the publication of the entire summons or notice in the regular issue of a qualified newspaper, once each week for 3 weeks. Service by publication shall be permitted only upon order of a child support magistrate. The child support magistrate may order service by publication upon the filing of an affidavit by the serving party or the serving party's attorney stating that the person to be served is not a resident of the state or cannot be found within the state, the efforts that have been made to locate the other party, and either that

the serving party has mailed a copy of the summons or notice to the other party's place of residence or that such residence is not known to the serving party. When the person to be served is not a resident of the state, statutory requirements regarding long-arm jurisdiction shall be met.

(B) Defense by Noninitiating Party. If the summons or notice is served by publication and the noninitiating party receives no actual notification of the proceeding, either before judgment or within one year of entry of judgment the noninitiating party may seek relief pursuant to Minn. R. Civ. P. 4.043.

Subd. 2. Service by U.S. Mail. Service by U.S. mail means mailing a copy of the document by first-class mail, postage prepaid, addressed to the person to be served at the person's last known address. Service by mail shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on the parties.

Subd. 3. Service by Electronic Means. Unless these rules require personal service, any document may be served by electronic means under Rule 14 upon any party who has agreed to or is required to accept service by electronic means.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015; amended effective July 1, 2019.)

Advisory Committee Comment - 2008 Amendment

Rule 355.02, subdivisions 1 and 2, are amended to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A.

Advisory Committee Comment - 2019 Amendment

Rule 355, subdivision (c)(1), is amended to reflect the amendment of Rule 4.05 of the Rules of Civil Procedure, effective July 1, 2018, to create a new means of obtaining consent to service under the rule. The former rule's reference to "service by mail" is potentially misleading, as the procedure set forth in the rule only accomplished service if the party to be served returned the acknowledgement of service.

Rule 355.03 Completion of Service

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing. Service by publication is complete 21 days after the first publication. Completion of service by electronic means under Rule 14 is governed by Rule 14 of these rules.

(Amended effective July 1, 2015.)

Rule 355.04 Proof of Service

Subdivision 1. Parties. All documents filed with the court shall be accompanied by an affidavit of service, an acknowledgment of service by the party or party's attorney if served by alternative service, or, if served by publication, by the affidavit of the printer or the printer's designee. An affidavit of service shall describe what was served, state how the document was served, upon whom it was served, and the date, time, and place of service. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

Subd. 2. Court Administrator. If the court administrator is required or permitted under these rules to serve a document, service may be proved by filing an affidavit of service, by filing a copy

of the written notice, or by making a notation in the court's computerized records that service was made.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

Rule 355.03 is amended to provide a cross-reference to Rule 14, governing electronic service generally. Additionally, the former provision relating to the time of completion of service by facsimile is deleted because that subject is now governed by Rule 14. The E-Filing System provides proof of service for any service made with it; if a document is served by other means, such as personally, by mail, or other agreed-upon means, separate proof of service must be prepared and filed.