

1                                   **SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

2   **RULE 9**

3                   **A Service; when required.** Except as otherwise provided in these rules, every order[, ];  
4 every pleading subsequent to the original complaint[, ]; every written motion other than one  
5 which may be heard ex parte[, ]; and every written request, notice, appearance, demand, offer of  
6 judgment, designation of record on appeal, and similar paper shall be served upon each of the  
7 parties. No service need be made on parties in default for failure to appear except that pleadings  
8 asserting new or additional claims for relief against them shall be served upon them in the  
9 manner provided for service of summons in Rule 7.

10                   **B Service; how made.** Whenever under these rules service is required or permitted to be  
11 made upon a party, and that party is represented by an attorney, the service shall be made upon  
12 the attorney unless otherwise ordered by the court. Service upon the attorney or upon a party shall  
13 be made by delivering a copy to such attorney or party, by mailing it to such attorney's or party's  
14 last known address or, if the party is represented by an attorney, by telephonic facsimile  
15 communication device **or e-mail** as provided in sections **F or G** of this rule. Delivery of a copy  
16 within this rule means: handing it to the person to be served; or leaving it at such person's office  
17 with such person's clerk or person apparently in charge thereof; or, if there is no one in charge,  
18 leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has  
19 no office, leaving it at such person's dwelling house or usual place of abode with some person  
20 over 14 years of age then residing therein. A party who has appeared without providing an  
21 appropriate address for service may be served by placing a copy of the pleading or other papers in  
22 the court file. Service by mail is complete upon mailing. Service of any notice or other paper to  
23 bring a party into contempt may only be upon such party personally.

24                   **C Filing; proof of service.** Except as provided by section D of this rule, all papers  
25 required to be served upon a party by section A of this rule shall be filed with the court within a  
26 reasonable time after service. Except as otherwise provided in Rule[s] 7 and **Rule** 8, proof of

1 service of all papers required or permitted to be served may be by written acknowledgment of  
2 service, by affidavit or declaration of the person making service, or by certificate of an attorney.  
3 Such proof of service may be made upon the papers served or as a separate document attached to  
4 the papers. Where service is made by telephonic facsimile communication device or e-mail,  
5 proof of service shall be made by affidavit or declaration of the person making service, or by  
6 certificate of an attorney. Attached to such affidavit, declaration, or certificate shall be the printed  
7 confirmation of receipt of the message generated by the transmitting machine, if facsimile  
8 communication is used. If service is made by e-mail under section G of this rule, the person  
9 making service must certify that he or she received confirmation that the message was  
10 received, either by return e-mail, automatically-generated message, telephonic facsimile, or  
11 orally.

12 **D When filing not required.** Notices of deposition, requests made pursuant to Rule 43,  
13 and answers and responses thereto shall not be filed with the court. This rule shall not preclude  
14 their use as exhibits or as evidence on a motion or at trial.

15 **E Filing with the court defined.** The filing of pleadings and other papers with the court  
16 as required by these rules shall be made by filing them with the clerk of the court or the person  
17 exercising the duties of that office. The clerk or the person exercising the duties of that office  
18 shall endorse upon such pleading or paper the time of day, the day of the month, the month, and  
19 the year. The clerk or person exercising the duties of that office is not required to receive for  
20 filing any paper unless the name of the court, the title of the cause and the paper, [*and*] the names  
21 of the parties, and the attorney for the party requesting filing, if there be one, are legibly endorsed  
22 on the front of the document, nor unless the contents thereof are legible.

23 **F Service by telephonic facsimile communication device.** Whenever under these rules  
24 service is required or permitted to be made upon a party, and that party is represented by an  
25 attorney, the service may be made upon the attorney by means of a telephonic facsimile  
26 communication device if the attorney maintains such a device at the attorney's office and the

1 device is operating at the time service is made. Service in this manner shall be equivalent to  
2 service by mail for purposes of Rule 10 C.

3 **G Service by e-mail. Service by e-mail is prohibited unless attorneys agree in**  
4 **writing to e-mail service. This agreement must provide the names and e-mail addresses of**  
5 **all attorneys and the attorneys' designees, if any, to be served. Any attorney may withdraw**  
6 **his or her agreement at any time, upon proper notice via e-mail and any one of the other**  
7 **methods authorized by this rule. Service is effective under this method when the sender has**  
8 **received confirmation that the attachment has been received by the designated recipient.**  
9 **Confirmation of receipt does not include an automatically-generated message that the**  
10 **recipient is out of the office or otherwise unavailable.**

## **RULE 9. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

**A. Service; When Required.** Except as otherwise provided in these rules, every order, every pleading subsequent to the original complaint, every written motion other than one which may be heard *ex parte*, and every written request, notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 7.

**B. Service; How Made.** Whenever under these rules service is required or permitted to be made upon a party, and that party is represented by an attorney, the service shall be made upon the attorney unless otherwise ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to such attorney or party, by mailing it to such attorney's or party's last known address or, if the party is represented by an attorney, by telephonic facsimile communication device or e-mail as provided in sections F or G of this rule. Delivery of a copy within this rule means: handing it to the person to be served; or leaving it at such person's office with such person's clerk or person apparently 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 such person's dwelling house or usual place of abode with some person over 14 years of age then residing therein. A party who has appeared without providing an appropriate address for service may be served by placing a copy of the pleading or other papers in the court file. Service by mail is complete upon mailing. Service of any notice or other paper to bring a party into contempt may only be upon such party personally.

**C. Filing; Proof of Service.** Except as provided by section D of this rule, all papers required to be served upon a party by section A of this rule shall be filed with the court without a reasonable time after service. Except as otherwise provided in Rules 7 and 8, proof of service of all papers required or permitted to be served may be by written acknowledgment of service, by affidavit or declaration of the person making service, or by certificate of an attorney. Such proof of service may be made upon the papers served or as a separate document attached to the papers. Where service is made by telephonic facsimile communication device or e-mail, proof of service shall be made by affidavit or declaration of the person making service, or by certificate of

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an attorney. Attached to such affidavit, declaration or certificate shall be the printed confirmation of receipt of the message generated by the transmitting machine, if facsimile communication is used. If service is made by e-mail under section G of this rule, the person making service must certify that he or she received confirmation that the message was received, either by return e-mail, automatically-generated message, telephonic facsimile or orally.

**D. When Filing Not Required.** Notices of deposition, requests made pursuant to Rule 43, and answers and responses thereto shall not be filed with the court. This rule shall not preclude their use as exhibits or as evidence on a motion or at trial.

**E. 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 clerk of the court or the person exercising the duties of that office. The clerk or the person exercising the duties of that office shall endorse upon such pleading or paper the time of day, the day of the month, month, and the year. The clerk or person exercising the duties of that office is not required to receive for filing any paper unless the name of the court, the title of the cause and the paper, and the names of the parties, and the attorney for the party requesting filing, if there be one, are legibly endorsed on the front of the document, nor unless the contents thereof are legible.

**F. Service by Telephonic Facsimile Communication Device.** Whenever under these rules service is required or permitted to be made upon a party, and that party is represented by an attorney, the service may be made upon the attorney by means of a telephonic facsimile communication device if the attorney maintains such a device at the attorney's office and the device is operating at the time service is made.

**G. Service by E-mail.** Service by e-mail is prohibited unless attorneys agree in writing to e-mail service. This agreement must provide the names and e-mail addresses of all attorneys and the attorneys' designees, if any, to be served. Any attorney may withdraw its agreement at any time, upon proper notice via e-mail and any one of the other methods authorized by this rule. Service is effective under this method when the sender has received confirmation that the attachment has been received by the designated recipient. Confirmation of receipt does not include an automatically-generated message that the recipient is out of the office or otherwise unavailable.