

## **Alabama Rules of Civil Procedure**

### **II. Commencement of action; service of process, pleadings, motions, and orders.**

#### **Rule 4.2.**

##### **Process. Basis for and methods of out-of-state service.**

(a) *In-state service.* All process may be served anywhere in this state and, when authorized by law or by these rules, may be served outside this state.

(b) *Basis for out-of-state service.* An appropriate basis exists for service of process outside of this state upon a person or entity in any action in this state when the person or entity has such contacts with this state that the prosecution of the action against the person or entity in this state is not inconsistent with the constitution of this state or the Constitution of the United States; or, the person or entity is sued in the capacity of guardian of a ward, or executor, administrator, or other personal representative of an estate, for the acts or omissions of a decedent or ward, and the person or entity so sued does not otherwise have sufficient contacts with this state in that capacity, but the decedent or ward would have been deemed to have sufficient contacts with this state if the action could have been maintained against the decedent or ward.

(dc) *District court rule.* Rule 4.2 applies in the district courts.

[Adopted 10-14-76, eff. 1-16-77; Amended eff. 10-1-95; Amended eff. 8-1-2004.]

#### **Committee Comments on 1977 Complete Revision**

#### **Committee Comments on Complete Revision to Rules 4, 4.1, 4.2, 4.3, and 4.4, effective August 1, 2004**

#### **Committee Comments to Amendment to Rule 4.2 Effective August 1, 2004**

This rule has been completely rewritten and now combines the provisions for territorial limits of service. New subdivision 4.2(a) was formerly Rule 4(b). Subdivision 4.2(b) is taken from former 4.2(a)(1)(B). New 4.2(b) is, in effect,

Alabama's "long-arm statute." The structure of former 4.2 included a "laundry list" of types of conduct that would subject an out-of-state defendant to personal jurisdiction in Alabama, as well as containing the "catchall" clause now contained in new 4.2(b). Because the "catchall" clause has consistently been interpreted to go to the full extent of federal due process, see, for example, *Martin v. Robbins*, 628 So.2d 614, 617 (Ala.1993), it is no longer necessary to retain the "laundry list" in the text of the Rule. The so-called "laundry list," former Rule 4.2(a)(2)(A)-(H), read as follows:

"(2) SUFFICIENT CONTACTS. A person has sufficient contacts with the state when that person, acting directly or by agent, is or may be legally responsible as a consequence of that person's:

"(A) transacting any business in this state;

"(B) contracting to supply services or goods in this state;

"(C) causing tortious injury or damage by an act or omission in this state including but not limited to actions arising out of the ownership, operation or use of a motor vehicle, aircraft, boat or watercraft in this state;

"(D) causing tortious injury or damage in this state by an act or omission outside this state if the person regularly does or solicits business, or engages in any other persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in this state;

"(E) causing injury or damage in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when the person might reasonably have expected such other person to use, consume, or be affected by the goods in this state, provided that the person also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

"(F) having an interest in, using, or possessing real property in this state;

"(G) contracting to insure any person, property, or risk located within this state at the time of contracting;

“(H) living in the marital relationship within this state notwithstanding subsequent departure from this state, as to all obligations arising from alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in this state. ...”

**Note from the reporter of decisions:** The order amending Rules 4, 4.1, 4.2, 4.3, 4.4, 6(a), 7(b)(2), 17(a), 22(c), and 26(b), Alabama Rules of Civil Procedure, effective August 1, 2004, is published in that volume of *Alabama Reporter* that contains Alabama cases from 867 So.2d.