

## Alabama Rules of Civil Procedure

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

#### Rule 3.

##### Commencement of action.

(a) *Filing the complaint.* A civil action is commenced by filing a complaint with the court.

(b) *Filing the informational “cover sheet” in the circuit court.* Except in domestic relations cases, each original complaint at the time it is filed with the circuit court shall be accompanied by an informational “cover sheet.” See [Form 93](#). However, the failure to accompany the complaint with the cover sheet shall not affect the validity of the commencement of the action. The plaintiff, or if the plaintiff is represented by counsel, then the plaintiff’s attorney, shall complete and sign the “general information” portion of the cover sheet before it is filed with the court. If the complaint is submitted to the clerk of the circuit court without a properly completed cover sheet, the clerk shall accept the complaint and inform the person filing it of the requirements of this rule, and the plaintiff, or, if the plaintiff is represented by counsel, then the plaintiff’s attorney, shall promptly file a properly completed cover sheet. For the failure to comply with the requirements of this rule, the court in which the action is pending may make such orders as are just, including an order staying the proceedings until the cover sheet is filed or, after proper notice, an order dismissing the action; and, in lieu of any other orders, or in addition to any orders, the court may treat the failure to comply with the requirements of this rule as contempt of court.

(c) *Filing the informational “cover sheet” in cases appealed from the district court to the circuit court.* The “Cover Sheet” ([Form 93](#)) required by paragraph (b) shall be filed by the appellant in the case of an appeal from the district court to the circuit court; the cover sheet shall accompany the notice of appeal. The requirement that the cover sheet accompany the notice of appeal shall be subject to the same rules and the same principles of enforcement as are applicable to an original filing in the circuit court. See (b).

(dc) *District court rule.* Rule 3(a) applies in the district court. Rule 3(b) and (c) are not applicable to cases commenced in the district court; but paragraph (c) makes the provisions of paragraph (b) applicable to an appeal from the district

court to the circuit court in the same manner in which they would be applicable to an original filing in the circuit court.

[Amended 8-27-91, eff. 10-1-91; Amended eff. 10-24-2008.]

### **Committee Comments on 1973 Adoption**

This rule is in accord with existing Alabama practice. Code of Ala., Tit. 7, § 43. That section of the Code also listed the persons with whom the complaint could be filed. This matter is now covered by Rule 5(e).

Under the rules it will not be necessary to file the summons along with the complaint. Compare Code of Ala., Tit. 7, § 182. Instead, upon filing of the complaint, the clerk is required forthwith to issue a summons and deliver it to a proper person for service. Rule 4(a).

By virtue of this rule, filing of the complaint “commences” the action for purposes of the statute of limitations even though actual service may not be made until some time thereafter, at least where the plaintiff uses due diligence in attempting to make service. *Horn v. Pope*, 205 Ala. 127, 87 So. 161 (1920). And filing, even without service, is the date from which is to be reckoned the availability of such procedures as a motion for summary judgment, Rule 56(a). See *Edwin H. Morris & Co., Inc. v. Warner Bros. Pictures, Inc.*, 10 F.R.D. 236 (S.D.N.Y.1950).

Rule 5(e) defines filing with the court as accomplished by filing the papers with the clerk, or, by permission of the judge, filing them with the judge to be transmitted by him to the clerk. In some circumstances papers are to be filed with the register in chancery rather than with the clerk. See Rule 5 and Rule 79(f) and notes thereto.

### **Court Comment to Amendment Effective October 1, 1991**

The amendment adding Rule 3(b) and (c) and modifying 3(dc) provided for the use of cover sheets in civil actions. These sheets will give the court more detailed information to enhance court management decisions.

**Committee Comments to Amendment to Rule 3(b)  
Effective October 24, 2008**

This is a technical amendment intended to encompass both paper and electronic filings. No substantive change is intended.

**Note from the reporter of decisions:** The order amending effective October 24, 2008, Rule 3, Rule 4, Rule 5, Rule 6, Rule 11, Rule 55, Rule 58, Rule 59.1, Rule 77, and Rule 79, and adopting effective October 24, 2008, the Committee Comments to Amendment to Rule 3(b) Effective October 24, 2008; Committee Comments to Amendments to Rule 4 Effective October 24, 2008; Committee Comments to Amendments to Rule 5 Effective October 24, 2008; Committee Comments to Amendments to Rule 6 Effective October 24, 2008; Committee Comments to Amendment to Rule 11 Effective October 24, 2008; Committee Comments to Amendment to Rule 55(a) Effective October 24, 2008; Committee Comments to Amendments to Rule 58 Effective October 24, 2008; Committee Comments to Amendment to Rule 59.1 Effective October 24, 2008; Committee Comments to Amendments to Rule 77(d) Effective October 24, 2008; and the Committee Comments to Addition of Rule 79(e) Effective October 24, 2008, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So. 2d.