

Alabama Rules of Civil Procedure

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

Rule 4.1.

Service of Other Process

Process other than a summons as provided in Rule 4 or subpoena as provided in Rule 45 shall be served by a sheriff or constable, or a person specially appointed for that purpose, who shall make a proof of service as provided in Rule 4(i)(1)(c). The process may be served anywhere within this state, and, when authorized by law, outside of this state.

(dc) *District court rule.* Rule 4.1 applies in the district courts.

[Adopted 10-14-76, eff. 1-16-77; Amended eff. 8-1-92; Amended eff. 10-1-95; Amended eff. 8-1-2004.]

Committee Comments

The Committee Comments on 1977 Complete Revision and the Committee Comments on Complete Revision to Rules 4, 4.1, 4.2, 4.3. and 4.4, effective August 1, 2004, follow Rule 4.4.

Committee Comments to August 1, 1992, Amendment to Rule 4.1(c)(3)

The August 1, 1992, revision to Rule 4(c)(1) permits service upon an individual by serving the individual or by leaving a copy of the summons and the complaint at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and the complaint to an authorized agent. Likewise, the amendment to Rule 4.1(c)(3) renders service by certified mail effective from the date of delivery to the named addressee or to his agent. The purpose of both these changes is to simplify service requirements under Alabama law and to facilitate service of process. While Alabama law is not yet as liberal as the Federal Rules of Civil Procedure in this area, the August 1, 1992, amendments move Alabama closer to that position. The committee notes that courts should be vigilant to protect the rights of defendants when default judgments are entered on the basis of service upon an agent of the defendant. On motion to set aside a default or on motion for relief from a default, where service has been attempted

on a person alleged to be or purporting to be an agent, no presumption of agency should be indulged in with respect to such service and the court should be satisfied that the person upon whom service was attempted was in fact the authorized agent of the defendant before refusing to grant relief from a default judgment.

**Committee Comments to Amendment to Rule 4.1
Effective August 1, 2004**

This new provision in Alabama law is borrowed, with only minor changes, from Rule 4.1(a), Fed.R.Civ.P., which became effective in December 1993. The field of operation of this rule is narrow, but it does provide a “catchall” provision to provide governance when documents in the nature of “process” must be served and no other specific rule or statute exists to govern the mechanics of service.

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.