

Alabama Rules of Civil Procedure

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

Rule 4.4.

Process: Basis for and methods of service in a foreign country.

Unless otherwise provided by law, service of process in a foreign country may be effected:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(dc) *District court rule.* Rule 4.4 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 to October 1, 1995,
Amendment to Rule 4.4**

The procedure for service in a foreign country set forth in this rule cannot be followed if it would conflict with the provisions of a treaty between the foreign country and the United States of America. For example, where mail service of process was rejected as a means of service in the Federal Republic of Germany pursuant to the Hague Convention, the provisions for such service contained in Rule 4.4 were overridden. See *Rivers v. Stihl*, 434 So.2d 766 (Ala.1983). Rule 4.4(b) has been amended to acknowledge the prospect for service in a manner inconsistent with Rule 4.4 where a treaty so requires.

**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 4.4
Effective August 1, 2004**

Rule 4.4 as amended is taken almost verbatim from Rule 4(f), Fed.R.Civ.P., as amended effective December 1, 1993. It was not the intent by amending Rule 4.4 to alter the substance of former Rule 4.4 as to how service is perfected in foreign countries; the Committee thought the current Federal Rule was more clear, succinct, and up-to-date.

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.