

The Supreme Court of South Carolina

Re: Amendments to the South Carolina Rules of Civil Procedure

Appellate Case No. 2021-001054

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, the South Carolina Rules of Civil Procedure are amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

Rule 4 of the South Carolina Rules of Civil Procedure is amended to delete paragraph (h)(5) and add the following Note:

Note to 2022 Amendment:

Based on the adoption of new Rule 4.1, paragraph (h)(5) of this rule, which specified the method of proof of service if made outside the United States, has been deleted.

The South Carolina Rules of Civil Procedure are amended to adopt new Rule 4.1, which provides:

**RULE 4.1
SERVICE OF PROCESS IN FOREIGN COUNTRIES**

(a) Serving an Individual in a Foreign Country. Unless otherwise provided by law, an individual—other than a minor or an incompetent person—may be served at a place not within any judicial district of the United States:

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

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

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

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the

complaint to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(3) by other means not prohibited by international agreement, as the court orders.

(b) Serving a Corporation or Partnership in a Foreign Country.

Unless otherwise provided by law, a corporation, partnership or association may be served at a place not within any judicial district of the United States, in any manner prescribed by paragraph (a) for serving an individual, except personal delivery under (a)(2)(C)(i).

(c) Proof and Return.

(1) Service not within any judicial district of the United States must be proved as follows:

(A) if made under paragraph (a)(1) of this rule, as provided in the applicable treaty or convention; or

(B) if made under paragraph (a)(2) or (a)(3) of this rule, by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(2) Failure to make proof of service does not affect the validity of the service.

(d) Amendment. At any time in its discretion and upon terms as it deems just, the court may, by written order, allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(e) Acceptance of Service. No other proof of service shall be required when acceptance of service is acknowledged in writing and signed by the person served or his attorney, and delivered to the person making

service. The acknowledgement shall state the place and date service is accepted.

Note:

Rule 4.1 adopts provisions of the federal rule with respect to service of process in foreign countries. This new rule is intended to provide guidance as to the proper methods of service and proof of service in foreign countries, and is not intended to amend or supplant the provisions of existing Rule 4 with respect to the issuance or form of the summons.

SUBMITTED TO GENERAL ASSEMBLY