

Rule 49. Serving and Filing Papers

(a) SERVICE ON A PARTY.

(1) *What Is Required.* Each of the following must be served on every party: any written motion (other than one to be heard *ex parte*), opposition, written notice, designation of the record on appeal, or similar paper.

(2) *Serving a Party's Attorney.* Unless the court orders otherwise, when these rules or a court order requires or permits service on a party represented by an attorney, service must be made on the attorney instead of the party.

(3) *Service: How Made.* A paper is served under this rule by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or

(ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it to the person's last known address—in which event service is complete upon mailing;

(D) leaving it with the clerk's office if the person has no known address;

(E) sending it to a registered user using the court's electronic-filing system or sending it by other electronic means that are permitted or required by administrative order or that the person consented to in writing—in which event service is complete upon sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or

(F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

(b) FILING.

(1) *When Required; Certificate of Service.* Any paper that is required to be served must be filed no later than a reasonable time after service. No certificate of service is required when a paper is served using the court's electronic-filing system. When a paper is served by other means, a certificate of service must be filed with it or within a reasonable time after service or filing.

(2) *Means of Filing.*

(A) *Electronically.* A paper is filed electronically by filing it with the court's electronic-filing system. A filing made through a person's electronic-filing account and authorized by that person, together with the person's name on a signature block, constitutes the person's signature. A paper filed electronically is written or in writing under these rules.

(B) *Nonelectronically.* A paper not filed electronically is filed by delivering it:

(i) to the clerk's office; or

(ii) to a judge who agrees to accept it for filing, and who must then note the filing date on the paper and promptly send it to the clerk's office.

(3) *Means Used by Represented and Unrepresented Parties.*

(A) *Represented Party.* A party represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is otherwise allowed or required by this rule or administrative order of the Chief Judge.

(B) *Unrepresented Party*. A party not represented by an attorney must file nonelectronically, unless allowed to file electronically by court order or administrative order of the Chief Judge.

(4) *Signature Block*. Every written motion and other paper must be signed by at least one attorney of record in the attorney's name—or by a person filing a paper if the person is not represented by an attorney. The paper must state the signer's address, e-mail address, and telephone number. Unless a rule or statute specifically states otherwise, a pleading need not be verified or accompanied by an affidavit. The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or person's attention.

(5) *Acceptance by the Clerk*. The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules.

(c) SERVICE AND FILING BY NONPARTIES. A nonparty may serve and file a paper only if doing so is required or permitted by law. A nonparty must serve every party as required by Rule 49(a), but may use the court's electronic-filing system only if allowed by court order or administrative order of the Chief Judge.

(d) NOTICE OF A COURT ORDER.

(1) *In General*. In all cases where a party or the party's attorney is not present, immediately after entering an order on a post-arraignment motion, the clerk must serve notice of the entry on each party. The clerk must record the service on the docket.

(2) *Time to Appeal Not Affected by Lack of Notice*. Lack of notice of the entry does not affect the time for appeal or relieve—or authorize the court to relieve—a party for failing to appeal within the time allowed, except as permitted by the District of Columbia Court of Appeals Rules.

(3) *Who Can Perform the Clerk's Function*. Nothing in this rule precludes a judge or magistrate judge or his or her authorized staff member from performing the function of the clerk prescribed in Rule 49(d)(1).

COMMENT TO 2020 AMENDMENTS

Consistent with the 2018 federal amendments to *Federal Rule of Criminal Procedure 49*, the filing and service provisions, which were previously addressed by reference to the civil rules, are now included in Rule 49.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in several respects.

Paragraph (a) includes "opposition" in the list of papers a party must serve on every other party.

Consistent with the former rule, paragraph (c) explicitly requires the clerk to notify the parties of orders on motions entered outside their presence. The clerk must mail notice of the entry of the orders to the parties and must make an entry on the docket that the notice has been mailed. This requirement is in keeping with District of Columbia Court of Appeals Rule 4(b)(5), which defines entry of an order made outside the presence of

the parties with reference to the entry on the criminal docket reflecting the mailing of notice.

Paragraph (e) is retained from the former rule. It was added to insure that all parties are informed of any communication delivered to a judicial officer. The term “judge” in former paragraph (e) of this rule was replaced with the term “judge or magistrate judge” to make it applicable to communications by counsel with magistrate judges. The parenthetical phrase “other than those regarding matters to be heard ex parte” was added to parallel similar language in paragraph (a) of this rule.