

SUPREME COURT OF ARKANSAS

IN RE RESPONSE TO THE COVID-19
PANDEMIC-AMENDMENT TO
ARKANSAS RULE OF CIVIL
PROCEDURE 4(g)(1)(A)(ii)

Opinion Delivered: March 18, 2021

PER CURIAM

Today, we announce an amendment to Arkansas Rule of Civil Procedure 4(g)(1)(A)(ii) regarding service of process by mail. The current Rule 4(g)(1)(A)(ii) requires a “return receipt signed by the addressee or the agent of the addressee” for effective service by mail. However, our Committee on Civil Practice has informed us that, under COVID-19 modified United States Postal Service signature procedures, letter carriers are directed not to obtain the signature of the addressee on the green card.¹ Instead, mail carriers are to request the addressee’s first initial and last name at the time of delivery and to make notations on the green card reflecting confirmation of delivery. Thus, the modified postal procedures may not provide for collection of the addressee’s signature as required to perfect service under Rule 4(g)(1)(A)(ii), and the Committee has therefore recommended this amendment to the rule.

Amended Rule 4(g)(1)(A)(ii) is effective immediately and is set out in full at the end of this order, as well as in “line-in, line-out” fashion (new material is underlined; deleted material is lined through). The rule as amended retains the addressee-signed green card return receipt as one basis for effective service by mail, but adds another provision that also validates service by mail if the green card is executed as provided in the Postal Service procedures in effect at the time of service so as to accommodate for Postal Service procedures that do not involve securing the addressee’s signature.

¹ See <https://faq.usps.com/s/article/USPS-Coronavirus-Updates-for-Business-Customers> (last accessed March 15, 2021), archived at <https://perma.cc/65CV-9RZX?type=image>.

Rule 4. Summons and Service of Process.

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(g) *Alternative Methods of Service.* In addition to the methods of service described in subdivision (f) of this rule, process may be served on any defendant except the United States and any of its agencies, officers, or employees by the methods enumerated in this subdivision.

(1) *Service by Mail.* The plaintiff or an attorney of record for the plaintiff shall serve process by mail only as provided in this paragraph.

(A)(i) Certified mail shall be addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or the agent of the addressee. The addressee must be a natural person specified by name, and the agent of the addressee must be authorized in accordance with U.S. Postal Service regulations. Notwithstanding the foregoing, service on the registered agent of a corporation or other organization may be made by certified mail with a return receipt requested.

(ii) Service pursuant to this paragraph (A) shall not be the basis for the entry of a judgment by default unless the record contains a return receipt signed by the addressee or the agent of the addressee or a returned envelope, postal document; a United States Postal Service Form 3811 (Domestic Return Receipt—green card) executed as provided in the United States Postal Service procedures in place at the time of service; or an affidavit by a postal employee reciting or showing refusal of the mailed process by the addressee. Failure to claim mail does not constitute refusal for purposes of this paragraph.

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Reporter’s Note (2021 Amendment). The need for an amendment to subsection 4(g)(1)(A)(ii) arose due to changes in United States Postal Service signature services during the COVID-19 pandemic. Prior to the amendment, Rule 4(g)(1)(A)(ii) required a “return receipt signed by the addressee or the agent of the addressee” for effective service by mail. However, postal service procedures during the pandemic did not permit addressees to sign the returned receipt. The rule as amended retained the signed green card return receipt as a basis for effective service by mail and added a provision that also validates service by mail if the green card “is executed as provided in the United States Postal Service procedures in place at the time of service.”

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