

B-9013-4
Proof of Service

(a) In addition to identifying the pleading, motion or other paper served and showing the date upon which service was made, every proof of service or certificate of service shall state the name of every entity served and the address to which service was directed, together with the manner in which service was made. Where service is made through the court's ECF System, the manner of service and the address to which service was directed may be provided by identifying the individuals so served and stating that they were electronically served through the court's ECF System.

(b)(1) Proof of service by facsimile machine may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

(2) Proof of service by email may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the email address to which the paper was transmitted and the method of confirmation that the transmission was received.

(c) Proof of service of all papers required or permitted to be served may be made by certificate of the person serving the same or by written acknowledgment of service, unless some other method of proof is expressly required by these rules or by the Federal Rules of Bankruptcy Procedure.

(d) The court may take no action with regard to any pleading, objection, motion or other paper required to be served upon any other party, including motions initiating contested matters, unless accompanied by a proper proof or certificate of service. Any such pleading, objection, motion or paper may be stricken, *sua sponte*, following seven (7) days notice.

Commentary

This rule does not authorize service by any particular manner. That is done by other rules and orders of the court. The rule merely specifies how proof of that service is to be made. Paragraph (b)(2) is new and specifies how proof of service by email is to be made. It is modeled on the original paragraph (b) which did the same thing for fax service. That paragraph has been re-designated (b)(1) to accommodate the new provision.

Commentary (1994)

Paragraph (a) merely states what is the proper practice given the diversity and variability of the entities the rules require to be served with various motions, notices, and other papers. It attempts to explicitly recognize that the "state certificate of service" so often encountered is neither suitable to nor proper for bankruptcy proceedings.

Paragraph (b) is based upon C.D.Cal.L.B.R. 10(3)(a).

Paragraph (c) is based upon proposed N.D.Ind.L.R. 5.1(e).

Paragraph (d) implements the requirements of paragraph (a) by publicly stating the consequences of an inadequate or absent proof of service.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated July 7, 2015, this rule was amended to add a new paragraph (b)(2) describing proof of service when service is made by email, re-designate the existing paragraph (b) as (b)(1), and add a commentary.

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated October 28, 2003, paragraph (a) of this rule was amended to conform with electronic case filing requirements.