

**THE CIVIL RULES COMMITTEE RECOMMENDS THE FOLLOWING PROPOSAL:**

1. **District Court Civil Rule 11(a)**—Allowing service by publication or posting in small claims cases.

Under current District Court Rule 11(a), a defendant in a small claims case cannot be served through publication or posting. This rule proposal would change that.

The prohibition against serving a small claims defendant through publication or posting has been in effect since the initial adoption of the small claims rules in 1975. A district court judge who regularly presides over small claims cases suggests that this current prohibition, at least in today's world, interferes with the goal of resolving small claims cases expeditiously, simply, and economically. If the plaintiff cannot serve a defendant personally or through certified mail, then the plaintiff must file a motion to move the case from the small claims rules into formal civil rules. This can cause delay as well as additional legal expense. Some plaintiffs must hire an attorney. Defendants are exposed to more attorney fees. The court also incurs additional administrative burdens. The proponent notes that in many cases removed to the formal rules, the plaintiff then requests posting on the court system's legal posting website.<sup>1</sup>

The Civil Rules Committee supports this change and recommends the following proposal:

**Rule 11. Process.**

(a) The summons shall be issued and the summons and complaint served, according to the procedures of Civil Rule 4, except that:

(1) If personal service is used, the clerk shall deliver the summons for service to a peace officer or to a person specially appointed to serve it.

(2) If service is by registered or certified mail, the clerk shall mail the summons and a copy of the complaint as provided in Civil Rule 4(h).

~~(3) Service by publication or posting shall not be allowed.~~

(34) Service on a defendant who is outside the state shall be allowed

(A) in accordance with the Landlord-Tenant Act, AS 34.03.340;

(B) in accordance with AS 09.05.020, entitled Service of Process on Nonresident Owner or Operator of Motor Vehicle; or

(C) as otherwise permitted under Civil Rule 4.

(45) The affidavit required by Civil Rule 4(f) is not required in small claims cases and Civil Rule 4(j) shall not apply.

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<sup>1</sup> Service of process by posting on the court system's legal notice website is a relatively new process. The supreme court approved this manner of service in 2014. Prior to that time, newspaper publication, which could be costly, was the default method of "other" service under Civil Rule 4(e).