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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Aug 20, 2025

Comment

The proposed change in F.R.Civ.P. 45 to allow service by mail or commercial-carrier delivery with "confirmation of actual receipt" does not provide necessary proof and assurance that there will be actual receipt by an individual being subpoened (who can be subject to contempt for not responding to the subpoena).

Comment ID
USC-RULES-CV-2025-0004-0003

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Comment from Grossman, Scott

Posted by the **United States Courts** on Aug 20, 2025

Comment

I oppose the proposed amendment to Rule 26(a)(3)(A)(i). Whether a witness will testify remotely is, in my view, a Rule 16 issue (a matter to be addressed at a pretrial conference) and not a Rule 26 disclosure issue. But more importantly, I think this amendment sends the wrong message and suggests that remote testimony may be routinely permitted. While we have all learned during the pandemic that remote testimony can be reliably implemented and considered, the default and strong preference should still be for in person testimony. Remote testimony should be the exception rather than the rule. The proposed addition to Rule 26(a)(3)(A)(i) I think sends the wrong message and suggests that remote testimony is or will be routinely allowed. Remote testimony has an appropriate place in an appropriate case, but we should be encouraging live testimony. I fear this proposed rule suggests otherwise.

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Comment from Anderson, DAaliyah

Posted by the **United States Courts** on Oct 7, 2025

Comment

Hello, I believe in this.

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Comment from Lawyers for Civil Justice

Posted by the **United States Courts** on Oct 13, 2025

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See attached file(s)

Attachments 1

LCJ Public Comment on Rule 45 Service of Subpoenas Oct 10 2025

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0006/attachment_1.pdf)

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COMMENT
to the
ADVISORY COMMITTEE ON CIVIL RULES

FIXING WHAT'S BROKEN IN RULE 45: MOVING BEYOND MINOR SERVICE OF SUBPOENA ISSUES TO FIXING THREE CRITICAL "RULE PROBLEMS"

October 10, 2025

Lawyers for Civil Justice ("LCJ")[1] respectfully submits this Comment to the Advisory Committee on Civil Rules ("Advisory Committee") in response to the Judicial Conference Committee on Rules of Practice and Procedure's Request for Comments on proposed amendments to Federal Rule of Civil Procedure ("FRCP") Rule 45.[2]

INTRODUCTION

The proposed amendment to Rule 45 ("Preliminary Draft")[3] is intended to "address practical problems" with service of subpoenas relating to the Rule's phrase "delivering a copy to the named person."[4] Yet the Advisory Committee's research reveals a weak case for the amendment: it found only two cases arguably involving ineffective service and concluded that service of subpoenas is rarely problematic. The marginal justification for amending the rule compares unfavorably with the high risk that loosening service requirements will cause uncertainty and incite new litigation over untested methods. Moreover, eliminating the requirement to tender witness fees at the time of service—allowing delay until the time of

[1] Lawyers for Civil Justice ("LCJ") is a national coalition of corporations, law firms, and defense trial lawyer organizations that promotes excellence and fairness in the civil justice system to secure the just, speedy, and inexpensive determination of civil cases. Since 1987, LCJ has been closely engaged in reforming federal procedural rules in order to: (1) promote balance and fairness in the civil justice system; (2) reduce costs and burdens associated with litigation; and (3) advance predictability and efficiency in litigation. LCJ's members regularly serve and receive both testimonial and documentary subpoenas, and are required to respond to them.

[2] *Preliminary Draft, Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Rules of Evidence*, 55-59 (Aug. 2025) ("Preliminary Draft"), https://www.uscourts.gov/sites/default/files/document/preliminary-draft-of-proposed-amendments-to-federal-rules_august2025.pdf.

[3] *Id*.

[4] Excerpt from the May 15, 2025, Report of the Advisory Committee on Civil Rules, Preliminary Draft at 40.

appearance—is both unworkable (many issuers do not require appearance, only documents) and contrary to the rule's deeply rooted purpose of protecting non-party witnesses.

Meanwhile, Rule 45 suffers from three serious deficiencies that genuinely demand the Advisory Committee's action: the lack of a clear requirement to pay non-parties' costs to produce documents; the absence of guidance for handling personal and confidential information belonging to subpoena recipients and data subjects; and the omission of any direction for avoiding the same costly and burdensome privilege logging requirements that prompted recent amendments to Rules 16 and 26. Rule 45's neglect of these challenging matters is causing real problems affecting countless non-parties in all types of cases.

I. AMENDING RULE 45's METHODS OF SERVICE IS UNNECESSARY AND WOULD CAUSE MORE UNCERTAINTY AND LITIGATION

The current methods of serving subpoenas that Rule 45 permits are working well; the exceptions are rare. The two "problem cases" cited by the Discovery Subcommittee[5] involve "witnesses who seem to be ducking service."[6] Such cases do not present evidence of any general problem with the rule, nor or do they involve situations in which a different rule would have led to a better result than simply adhering to the rule. The proposed Committee Note correctly acknowledges that "service of a subpoena usually does not present problems,"[7] reflecting the Discovery Subcommittee's conclusion last year that, "it seems that service of subpoenas has not presented great difficulties with frequency."[8]

Despite the weak rationale for rulemaking, the Preliminary Draft proposes to expand courts' authority to permit untested methods of service,[9] which would exacerbate the very problem the Advisory Committee seeks to abate: "wasteful litigation activity."[10] The Preliminary Draft would breed an entirely new set of ambiguities that would inevitably proliferate fights about sufficiency of service.[11] It could allow methods such as email or social media even when the

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[5] Notes of Discovery Subcommittee Teams Meeting (Aug. 19, 2024), Agenda Book, Civil Rules Advisory Committee (Oct. 10, 2024), 293, https://www.uscourts.gov/sites/default/files/2024-10_civil_rules_agenda_book_final_10-6.pdf.

[6] *Susana v. NY Waterway*, 662 F.Supp.3d 477, 477 n.1 (S.D.N.Y. 2023), recited in great detail multiple allegations of non-compliance by the plaintiff and her daughter (the intended subpoena recipient) and responded by granting summary judgment and awarding sanctions ("the Court does not find credible [the subpoenaed person's] excuse that she 'has been staying at [a different address] and has not occupied [Plaintiff's address] where the subpoena was directed' … given that she and Plaintiff have averred multiple times that they live together"). *See infra* Section II for a discussion of the other cited case.

[7] Proposed Note to Preliminary Draft, 57.

[8] Draft Minutes, Civil Rules Advisory Committee meeting Oct. 17, 2023, Agenda Book, Civil Rules Advisory Committee (Apr. 9, 2024), 67, https://www.uscourts.gov/sites/default/files/2024-04-09_agenda_book_for_civil_rules_meeting_final_4-9-2024.pdf.

[9] Preliminary Draft at 56, 58.

[10] Agenda Book, Civil Rules Advisory Committee (Apr. 9, 2024), 258. *See also* Draft Minutes, Civil Rules Advisory Committee meeting Oct. 17, 2003, Agenda Book, Civil Rules Advisory Committee (Apr. 9, 2024), 68 ("Disputes about whether a subpoena was actually served can be important, and that is the goal to be pursued.").

[11] Significantly, in 2020, the Advisory Committee examined the rules governing service of process in light of the COVID-19 pandemic and concluded that Rule 4 works well enough (although not perfectly) and that it should not be amended to allow a broader range of methods of service absent a "Civil Rules emergency." *See* FED. R. CIV. P. 87.

chance of actually reaching the intended recipient are purely speculative in the absence of any return of service.[12] The overbroad and ill-defined "reasonably calculated" standard would invite courts—largely proceeding *ex parte*—to sign off on untested methods with no idea whether they will work.[13] Those methods will be contested.

Caution is particularly imperative because Rule 45(g) authorizes contempt sanctions for a person who "fails without adequate excuse to obey the subpoena." The Advisory Committee should avoid increasing the likelihood that people who did not receive a subpoena suffer those penalties. One good feature of the Preliminary Draft is that it limits any authorization of additional methods of service only to circumstances when the methods spelled out in the current rule have been attempted in good faith and have not worked. Also, the 14-day notice requirement is helpful, as is requiring a return receipt when service is undertaken via U.S. mail and commercial carriers. These safeguards mitigate somewhat the unintended consequences that will ensue if the proposed amendment is adopted. But even if the Advisory Committee moves forward with the Preliminary Draft, one provision—allowing the delay of tendering witness fees—should be dropped to avoid significant risks of harm.

II. DELAYING THE TENDERING OF WITNESS FEES WOULD REDUCE COMPLIANCE, HURT WITNESSES, AND CAUSE CONFUSION

There is scant, if any, evidence that Rule 45's language about tendering fees causes problems with the service of subpoenas. In the "one recent reported decision" concerning witness fees alluded to in the memo accompanying the Preliminary Draft,[14] the plaintiffs attempted to serve a non-party witness personally 23 times and then by certified mail and FedEx—but none of those attempts included the witness fee.[15] Had a check been included, in accordance with the Rule, the court's finding as to sufficiency may have been different—but the realities of the case likely would not have changed. The witness, according to a neighbor, "doesn't talk to anyone" and "will not come to the door for anyone."[16] This unfortunate circumstance is hardly a clarion call for a rule amendment. Similarly, the other case mentioned in the memo accompanying the Preliminary Draft also invites a simple remedy. The server in that case "did not initially deliver the witness fee check because it had the server's information on it and the server worried for his personal safety if that were revealed to the witness."[17] That problem is easily avoided by not putting the server's personal information on the check—a corrective that does not implicate

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[12] Lawyers for Civil Justice, Rules Suggestion, *Amending Rule 45: Why Expanding the Reach and Methods of Service of Subpoenas Should Not Render the Rule's Witness Protections Empty Words* (Mar. 7, 2025), https://www.uscourts.gov/sites/default/files/2025-03/25-cv-f_suggestion_from_lcj_-_rule_45_1.pdf.

[13] The Preliminary Draft's test for the new case-by-case approach is "reasonably calculated to give notice"—a lesser standard than actual notice. The difficulties inherent in a "reasonably calculated" standard are reflected in the Advisory Committee's recent decision to authorize service of process under a "reasonably calculated to give notice" standard *only when* the Judicial Conference declares "a Civil Rules emergency" due to "extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a court." Fed. R. Civ. P. 87. Although some differences exist between service of process and service of subpoenas, since Rule 45 primarily applies to non-parties, anything that lessens Rule 45's protections should entail heightened caution.

[14] Excerpt from the May 15, 2025, Report of the Advisory Committee on Civil Rules, Preliminary Draft at 40.

[15] *Brewer v. Town of Eagle*, 663 F.Supp.3d 939, 941-44 (E.D. Wis. 2023).

[16] *Id.* at 942.

[17] Excerpt from the May 15, 2025, Report of the Advisory Committee on Civil Rules, Preliminary Draft at 40.

anything in Rule 45 or present a "rules problem" for which a rule amendment is needed or justified, especially when weighed against the unintended negative consequences.[18]

Absent convincing examples, the case for amending the tendering of witness fees is the notion that "this seems an antiquated requirement,"[19] an observation that blithely disregards that the witness fee is an important safeguard deeply rooted in the rule's history and purpose of protecting against abuse. Further, allowing delay in tendering fees would be unworkable in practice because: (1) many subpoenas calling for depositions do so only to obtain documents, and no deposition ever actually occurs, and (2) many subpoenas for trial may not result in an actual appearance, since most cases settle before trial.

The current requirement to tender witness fees at the time of service still yields the most "precise and predictable outcome—either the party [serving the subpoena] pays fees or the subpoena is procedurally invalid."[20] It encourages compliance and protects witnesses from having to bear the burdens of someone else's lawsuit. The Preliminary Draft's proposal to allow delay in tendering fees would likely reduce compliance while harming non-party witnesses by requiring them to "front" discovery costs and rely for recovery of those costs on the good faith of the subpoenaing party. Courts have correctly refused to force witnesses to gamble on the honor of litigants.[21] Moreover, litigants may have incentives to evade responsibility for those costs or to impose pressure on non-parties to help their side of the case. A non-party witness could well travel for his or her deposition, answer questions for seven hours, and leave without any fees because the subpoenaing party was not satisfied with the responses. Putting the onus on witnesses to move for fees would be requiring more time and money than it is worth on a case in which they likely have no stake.

Delaying the tendering of witness fees undermines the Rule's stated purpose of protecting witnesses. It also invites gamesmanship by the subpoenaing party. This would be a step backward and should be dropped from the Preliminary Draft. Instead, the Advisory Committee should move in the opposite direction and take a crucial step forward to modernize the rule's protections by explicitly requiring issuers to pay for the expenses of the productions that they demand.

III. RULE 45 SHOULD REQUIRE REIMBURSEMENT FOR EXPENSES INCURRED TO PRODUCE DOCUMENTS, ESI, AND TANGIBLE THINGS

The Advisory Committee revised Rule 45 in 1991 to "clarify and enlarge the protections" afforded to non-parties, including adding paragraph (d)(1) to require that subpoena issuers "must

[18] The Advisory Committee's "usual approach" to developing rule amendments is "identifying a real-world problem and then assessing whether the problem is amenable to a rules-based solution and what the consequences of such a solution might be." Civil Rules Advisory Committee, Agenda Book (Apr. 1, 2025), 81, https://www.uscourts.gov/sites/default/files/2025-03/2025-04-civil-rules-committee-agenda-book-final-updated-3.28.25.pdf.

[19] Agenda Book, Civil Rules Advisory Committee (Oct. 17, 2023), 288.

[20] *Judicial Watch, Inc. v. U.S. Dep't of Commerce*, 212 F.R.D. 429, 430 (D.D.C. 2003).

[21] *See, e.g., Klockner Namasco Holdings Corp. v. Daily Access.com, Inc*., 211 F.R.D. 685, 687 (N.D. Ga. 2002) (a third-party witness "is not required to rely on the good faith of the party who subpoenas him to pay the fees when he appears."); *In re Food Supplement Co.,* 33 B.R. 188, 189 (Bankr. S.D. Fla. 1983) (same).

take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena" and paragraph (d)(2)(B)(ii) protecting non-parties from any "significant expense resulting from compliance."[22] In the intervening 34 years, two tectonic events have undermined the Rule's ability to achieve this purpose and thus created a "rules problem" requiring an amendment.

A. The Information Age Has Overwhelmed Rule 45's Protection Against "Significant Expense"

The information age has caused a discovery revolution that has multiplied the burdens of document production manyfold. The Advisory Committee is well aware of this fact and has undertaken numerous efforts since 1991 to modernize other FRCP provisions, but not Rule 45.[23] The 1991 protections were focused on "misuse" of the subpoena power, but today, the reality of e-discovery means that even the *legitimate* use of subpoenas puts undue burdens on many subpoena recipients—the people who, in the Advisory Committee's words, face "significant expense resulting from involuntary assistance to the court."[24] The Rule's purported remedy—allowing the subpoena recipient to move to quash or modify a subpoena—is not only burdensome in itself[25] but also may not be appropriate when the information sought is legitimately needed but expensive to produce. The data revolution has rendered Rule 45 no longer capable of upholding its foundational principle, reasserted in in 1991: that innocent bystanders should not be required to pay significant discovery expenses for litigation in which they have no stake.

B. Courts Have Effectively Rewritten Rule 45's Protection Against "Significant Expense"

The second reason that Rule 45's protections no longer reflect the Advisory Committee's intent is that courts have effectively rewritten the rule by inserting a discretionary means test that neither the Rule's text nor its history support. This is largely due to an opinion from the *Exxon Valdez* litigation[26] that imposed a three-factor test on Rule 45 non-parties seeking to recoup their costs: whether the non-party has an "interest in the outcome"; whether it could "more readily

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[22] FED. R. CIV. P. 45; *see also* FED. R. CIV. P. 45 advisory committee notes to 1991 amendment.

[23] The focus of the 2006 amendment to Rule 45 was to "conform the provisions for subpoenas to changes in the other discovery rules, largely related to discovery of electronically stored information." Fed. R. Civ. P. 45 advisory committee notes to 2006 amendment. Although the Advisory Committee acknowledged the burdens of ESI discovery on non-parties, it reiterated rather than materially revised Rule 45's protections:

> As with discovery of electronically stored information from parties, complying with a subpoena for such information may impose burdens on the responding person. Rule 45(c) provides protection against undue impositions on nonparties. For example, Rule 45(c)(1) directs that a party serving a subpoena "shall take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena," and Rule 45(c)(2)(B) permits the person served with the subpoena to object to it and directs that an order requiring compliance "shall protect a person who is neither a party nor a party's officer from significant expense resulting from" compliance.

Id.

[24] FED. R. CIV. P. 45 advisory committee notes to 1991 amendment.

[25] *See, e.g., Tucker v. Am. Int'l Grp., Inc.,* 281 F.R.D. 85, 98-99 (D. Conn. 2012) (denying motion to compel when burden and expense of retrieving electronic records imposed on non-party outweighed benefit to plaintiff).

[26] 142 F.R.D. 380, 383 (D.D.C. 1992).

bear" the production expense than the requesting party; and whether the litigation involves matters of "public importance."[27] In a textbook example that "hard facts make bad law," courts have readily copied this rubric in ordinary cases, projecting onto Rule 45 a convention for allocating the burdens of subpoena compliance that ignores the Rule's actual "significant expense" test. For example:

- In *Tessera v. Micron Technology*,[28] a routine patent case, the court assessed the "relative resources of the party and the non-party" in determining whether and to what extent the requesting parties should bear the cost of Rule 45 compliance;
- In *Seroquel Products Liability Litigation*,[29] an MDL court held that, regardless of significance, the costs of compliance under Rule 45 "can certainly be borne" by a non-party that was "the thirteenth largest market research firm in the world"[30];
- In *Cornell v. Columbus McKinnon*, an ordinary personal injury case, the court refused to protect the non-party subpoena recipient, the plaintiff's employer, from the costs of compliance because they were "dwarfed by" the third-party's "profit figures," a factor which "weigh[ed] in favor of finding them insignificant."[31] In doing so, the court found that "Fortune 500" companies were "quite unlike" the type of non-party entity contemplated by the 1991 amendment to Rule 45[32]; and
- In *Koopmann v. Robert Bosch*,[33] the court decided that the requesting party need only "bear half the cost of compliance" because the "non-party can more readily bear the costs than the requesting party."

These cases and others like them[34] have effectively rewritten Rule 45(c)(2)(B) to mean something other than what it says. In *Volt Power v. Butts*, the court found that "neither the text of the Rule, nor the Advisory Committee Notes require the court to consider the responding party's financial means."[35] *United States v. McGraw-Hill Cos.*, held that, under Rule 45, the costs should fall on the party to the suit, rather than the non-party, to the extent the expenses are significant.[36] In *OL Priv. Couns., LLC v. Olson*, the court held that Rule 45 requires relief from

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[27] *Id*.
[28] No. C06-80024MISC, 2006 WL 733498, at *10 (N.D. Cal. Mar. 22, 2006).
[29] No. 6:06-md-1769-Orl-22DAB, 2007 WL 4287676 (M.D. Fla. Dec. 6, 2007).
[30] *Id*. at *3-5.
[31] No. 13-cv-02188-SI, 2015 WL 4747260, at *4 (N.D. Cal. Aug. 11, 2015).
[32] *Id.* at *3-4.
[33] 18-CV-4065 (JMF), 2018 WL 9917679, at *1 (S.D.N.Y. May 25, 2018).
[34] *See, e.g., In Re Epipen*, MDL No. 2785, 2018 WL 3240981, at *4 (D. Kan. July 3, 2018) (requiring the producing party to "bear 50% of the reasonable costs"); *Gamache v. Hogue*, No. 1:19-CV-21 (LAG), 2023 WL 2658034, *6 (M.D. Ga. Mar. 15, 2023) (requiring producing non-party to "cover" one-third of the costs). No fewer than fifty-five cases have cited the relevant Westlaw headnote in *Exxon Valdez*.
[35] No. 7:19-CV-00149-BO, 2021 WL 4188428, at *2 (E.D.N.C. Aug. 17, 2021) ("the Rule does not carve out an exception to its fee-shifting provision").
[36] 302 F.R.D. 532, 535 (C.D. Cal. 2014) ("The drafters intended for costs to be more routinely shifted, i.e. not subject to equitable balancing by the courts, in order to avoid burdening non-parties who are compelled to assist the court by giving information or evidence." (internal citation and quotes omitted)). *See also Magna Mirrors of Am., Inc. v. Pittsburgh Glass Works LLC*, No. 2:12-mc-359, 2012 WL 4904515, at *3 (M.D. Pa. Oct. 15, 2012) (ordering the issuing party to bear all costs of complying with subpoena).

"significant expense" even if there is no "undue burden."[37] And *Legal Voice v. Stormans*[38] determined that only two considerations are relevant: "(1) whether the subpoena imposes expenses on the non-party, and (2) whether those expenses are significant." These cases honor the text of Rule 45, which needs to be amended to reaffirm that, as one court noted, the equitable factors tests did not "survive the 1991 amendments."[39]

C. The Advisory Committee Should Restore and Modernize the Rule

Professor Brian Fitzpatrick explains in his Rules Suggestion[40] that, although Rule 45 should not saddle non-parties with the expense of complying with subpoenas, the mechanisms of Rule 45 "rarely make non-parties whole anymore,"[41] demonstrating that the rule has become inconsistent with its original design.[42] When Rule 45 forces non-parties, who are typically dragged into litigation through no fault of their own, to shoulder the parties' litigation costs, it both creates inefficiencies and inequities that the FRCP should not abide and encourages overreaching discovery demands. The rule should not put non-parties between the Scylla of expensive compliance and the Charybdis of costly and potentially time-consuming motion practice in the hope of relief. Moreover, an explicit reimbursement requirement is not only a matter of fairness to non-parties, but also a tool for streamlining litigation. A clear rule would reduce the number of motions to quash, motions to compel, and motions for protective orders that consume judicial resources and lawyer time.

Specifically, in the spirit of rectifying Professor Fitzpatrick's observation that the Rule rarely makes non-parties whole, Rule 45(d)(2)(B)(ii) should be amended to require reimbursement to non-parties for all reasonable costs resulting from compliance, absent good cause. Such an amendment could look like this:

> (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from ~~significant~~ any reasonable expenses resulting from compliance, absent good cause.[43]

The accompanying Advisory Committee Note could explain that a good cause for reducing or disallowing the reimbursement might exist if the non-party has a disqualifying interest in the outcome of the litigation. However, good cause is not satisfied by the absolute or comparative size of the resources available to the non-party nor the degree to which the underlying litigation

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[37] Case No. 2:21-cv-00455, 2024 WL 4839277, at *3 (D. Utah Nov. 20, 2024)("Rule 45(d)(2)(B)(ii) protects a nonparty from any "significant expense" incurred in complying with an order to produce discovery" even absent a showing of "undue burden.").
[38] 738 F.3d 1178, 1185 (9th Cir. 2013).
[39] *U.S. v. McGraw-Hill*, 302 F.R.D. 532, 535 (C.D. Cal. 2014).
[40] Letter from Brian Fitzpatrick, Milton R. Underwood Chair in Free Enterprise and Professor of Law, Vanderbilt Law School, to Secretary, Committee on Rules of Practice and Procedure (Mar. 5, 2025), https://www.uscourts.gov/sites/default/files/2025-03/25-cv-e_suggestion_from_brian_fitzpatrick_-_rule_45.pdf.
[41] *Id.*
[42] Rule 45(b)(2) of the original 1938 Federal Rules permitted courts to require advance payment of reasonable production costs before enforcing a subpoena duces tecum. Before its deletion in 1991, the rule allowed a court to deny a motion to quash or modify if the party requesting the subpoena paid these costs. *See Amendments to Federal Rules of Civil Procedure,* 134 F.R.D. 525, 659 (1991) (1991 Amendments).
[43] *See* Exhibit A.

may be of public interest.

Such an amendment would restore the intent of the rule, modernize it to the realities of today's discovery, and reaffirm Rule 45's core promise: the power to compel discovery is not a license to burden third-party bystanders—no matter who they are—with "significant expense resulting from involuntary assistance to the court."[44]

Critics of this approach might suggest that reimbursement will invite expensive production—not so. Reasonable expenses are those that are necessary and proportional to the needs of the subpoena; non-incremental overhead costs would not ordinarily qualify. Courts are well acquainted with reasonableness standards for discovery expenses. A well-drafted amendment would deter over-spending rather than encourage it. Moreover, clear reimbursement reduces—not increases—satellite litigation and perverse incentives. Today, the absence of a predictable reimbursement incentivizes parties to externalize costs onto non-parties, and forces recipients either to over-litigate objections or to absorb substantial expenses. A mandatory reimbursement standard would encourage requesting parties to narrow the scope of their requests and focus non-parties on efficient compliance because only their reasonable costs will be repaid.

IV. RULE 45 SHOULD PROVIDE GUIDANCE FOR THE PROTECTION OF PERSONAL AND CONFIDENTIAL INFORMATION

Rule 45 is failing to provide basic direction to courts, parties, and non-parties for navigating the increasingly complicated conflict between discovery demands, information security, and privacy rights. Specifically, Rule 45 contains no guidance for protecting the privacy rights or security interests of: (1) the non-party that receives a subpoena for its data or (2) other non-parties whose personal information is contained within material requested or subpoenaed from a different non-party. While the need for such guidance may not have been compelling when the Advisory Committee last amended Rule 45 in 1991, today it is essential.[45]

The amount of data now available about individual people is massive and continues to grow. Critically, most of this data is not held by the people to whom the data pertains—so called "data subjects"—but rather by other third parties. Cloud providers host people's photos and documents, health apps store medical information, search engines store search histories, internet service providers store emails and instant messages, car companies store location data and driving information, and financial institutions store creditworthiness data—and the types and amounts of data continue to grow. Yet Rule 45 provides no guidance or guardrails for the protection of non-parties' well-established privacy rights when their data is subpoenaed. Nor does Rule 45 help protect a subpoenaed person's or entity's privacy interests or consider cyber security risks that could cause terrible embarrassment, destroy the data's value, or expose the subpoenaed person to liability.

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[44] FED. R. CIV. P. 45 advisory committee notes to 1991 amendment.

[45] Other FRCP rules also require revision for similar reasons. *See* Lawyers for Civil Justice, Rules Suggestion, *Reasonable Steps: Four Critical FRCP Updates for Managing Privacy and Cyber Security*, 9 (Mar. 3, 2025), https://www.uscourts.gov/sites/default/files/2025-03/25-cv-d_suggestion_from_lcj_-_privacy_rights_and_cyber_security_risks.pdf.

Rule 45 does not even mention privacy or cyber security. Its requirement for "reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena"[46] is too antiquated and imprecise to handle these problems. In fact, Rule 45 is affirmatively compromising the rights of non-parties by providing a vehicle for forcing disclosure of non-party data and copying it *en masse* into the litigation ecosystem to be used in ways the non-party and non-party data subjects never intended—usually without their knowledge. The rule's only remedy—allowing motions to quash and for protective orders—is not only unfair because it puts the burden solely on subpoena recipients who are often innocent bystanders to the litigation or holders of information that relates to others,[47] but also unworkable because non-party data subjects rarely know their information is being sought and disclosed. It is highly inefficient to require motion practice to limit the production of private or confidential information, to enforce reasonable cybersecurity measures to protect such information, and to impose basic data privacy principles like purpose limitations, anonymization, and data minimization, when Rule 45 guidance would obviate or significantly reduce the need for such litigation.

Rule 45 should be amended to incorporate clear standards for privacy and cybersecurity protections and define issuing parties' responsibilities to non-parties—both the non-parties who are directly subpoenaed and those whose data is the subject of a subpoena served on someone else. The Rule should clarify that issuers of subpoenas have the same basic responsibility to exercise due care in the scope of information they request[48] and in the handling of personal and confidential data they receive as is already imposed on those who hold this data in the first instance. Additionally, the Rule should reflect that both the party issuing a subpoena and the non-party entity responding to a subpoena are obligated to protect the privacy rights of absent non-party data subjects whose data will be produced but who will have no notice and thus no opportunity to protect their own interests. In other words, Rule 45 should be amended to clarify that protecting "a person subject to the subpoena" includes taking reasonable steps to protect private and confidential information, including information the subpoena recipient holds about other non-parties. A suggestion for specific rule amendment language is attached as Exhibit B.

V. RULE 45 SHOULD PROVIDE GUIDANCE FOR AVOIDING THE PERVASIVE BURDENS OF PRIVILEGE LOGGING

Many courts misunderstand Rule 45(e)(2)(A) to require non-parties to provide privilege logs—and specifically, document-by-document logs.[49] Unfortunately, the same *de facto* default to "document-by-document" overlogging that occurs under Rule 26(b)(5)(A),[50] requires many non-

[46] FED. R. CIV. P. 45(d).
[47] Babette Boliek, *Prioritizing Privacy in the Courts and Beyond*, 103 Cornell L. Rev. 1101, 1108 (2018) ("private litigants may have little incentive to incur security costs to protect third-party information").
[48] *See* MODEL RULES OF PROF'L CONDUCT r. 4.4(a) (AM. BAR ASS'N 1983) ("a lawyer shall not . . . use methods of obtaining evidence that violate the legal rights of [third parties])."
[49] *See, e.g., Midland States Bank v. Ygrene Energy Fund, Inc.*, No. 4:21-CV-00354 JAR, 2022 WL 2915553, at *3 (E.D. Mo. July 5, 2022) ("Rule 45's privilege log requirement"); *Relevant Grp., LLC v. Nourmand*, CV 19-5019-ODW (KSx), 2021 WL 9696765, at *4-5 (C.D. Cal. July 26, 2021) (rejecting multiple arguments that a document-by-document log should not be required and claiming an "aggregate" (categorical) log can never satisfy Rule 45).
[50] Lawyers for Civil Justice, Public Comment, *The Direct Approach: Why Fixing the Rule 26(b)(5)(A) Problem Requires an Amendment to Rule (b)(5)(A)*, (Oct. 4, 2023), https://www.regulations.gov/comment/USC-RULES-CV-2023-0003-0007.

parties to produce costly, burdensome, and often worthless privilege logs. Despite the Advisory Committee's recent work to address the often-outsized burdens of privilege logging procedures via amendments to Rules 16(b)(3)(B)(iv) and 26(f)(3)(D), the problems faced by non-party recipients of Rule 45 subpoenas remain unaddressed—primarily because non-parties typically do not participate in pre-trial conferences. Several public comments urged the Advisory Committee to amend Rule 45 during its rulemaking on privilege logs,[51] but the Advisory Committee opted to postpone any action until a future time when Rule 45 is under review. Now is the time.

Rule 45 does not mention privilege logs. Instead, it requires that subpoena recipients who withhold privileged material "must expressly make the claim" and "describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim."[52] This requirement should be balanced and proportional, imposing neither an "undue burden" nor an unreimbursed "significant expense." But the Advisory Committee Note to the 1991 Amendment focuses narrowly on one small aspect of the problem: overbroad subpoenas. It says:

> A person served a subpoena that is too broad may be faced with a burdensome task to provide full information regarding all that person's claims to privilege or work product protection. Such a person is entitled to protection that may be secured through an objection made pursuant to paragraph (c)(2).[53]

Non-parties need options for compliance even when subpoenas are not overbroad.[54] Sedona's *Commentary on Privilege Logs* notes that "some courts have permitted non-parties to substantiate their assertions of privilege through other, less burdensome means than a traditional privilege log."[55] The Sedona *Commentary* explains a variety of ways that the burdens associated with privilege logging can be mitigated.[56] The suggestions echo those that LCJ, Robert Keeling, Judge Facciola, Jonathan Redgrave, and numerous others submitted to the Advisory Committee in the context of a possible amendment to Rule 26(b)(5)(A).

Rule 45 should be amended to provide guidance and protection to non-parties facing Rule 45 subpoenas, including: (1) stating that document-by-document privilege logging is not required and alternative log formats may be equally if not more reasonable; (2) recognizing that certain

---

[51] *See id* at 8.
[52] FED. R. CIV. P. 45 (E)(2)(A).
[53] Fed. R. Civ. P. 45 advisory committee notes to 1991 amendment.
[54] "Complying with a subpoena will almost always require some production-related tasks like . . . creating a privilege log." *Gamefam, Inc. v. WowWee Grp. Ltd.*, No. 23-MC-80310-SI, 2024 WL 1181001, at *6 (N.D. Cal. Mar. 18, 2024) (quoting *Stormans, Inc. v. Selecky*, No. C07-5374 RBL, 2015 WL 224914, at *5 (W.D. Wash. Jan. 15, 2015)).
[55] The Sedona Conference, *Commentary on Privilege Logs*, 25 SEDONA CONF. J. 221, 244-45 (May 2024) (citing *Lake v. Charlotte Cty. Bd. of Cty. Comm'rs*, Case No. 2:20-cv809-JLB-NPM, 2021 WL 2351178, at *2 (M.D. Fla. June 9, 2021) ("[R]ather than require [subpoenaed persons] to produce privilege logs of withheld or redacted materials, they may categorically withhold or redact privileged communications, and must provide a certification by both the subpoenaed party and [plaintiff] that none of the withheld or redacted documents were distributed to or reviewed by anyone other than [plaintiff], [plaintiff's] counsel, [subpoenaed persons], or their respective staffs. Alternatively, if the subpoenaed party or [plaintiff] refuse to provide such a certification, then the subpoenaed party must produce a privilege log in compliance with Rule 45(e)(2)(A)(i)-(ii).").
[56] *See id*.

categories of documents (e.g., communications with counsel after the filing of the compliant) do not require logging absent compelling circumstances; and (3) defining the expenses of document-by-document logging as a "significant expense" and therefore compensable by the subpoena issuer. Such a rule would be well within the mainstream of jurisprudence.[57]

Non-parties facing the prospect of producing privilege logs pursuant to Rule 45 have an equal, if not greater, need for guidance and protection as parties, but the forthcoming amendments to Rules 16 and 26 will not help. The Advisory Committee should complete its work on privilege logs by promulgating an amendment to Rule 45 to provide non-parties appropriate guidance and protection.

CONCLUSION

The Advisory Committee should drop the provision allowing delay in the tender of witness fees from the Preliminary Draft because the unintended consequences are high and the case for the amendment is thin at best. Similarly, no amendment is needed to broaden the methods of subpoena service because anecdotes about people ducking service, although unfortunate, do not present a "rules problem" that will be solved by rulemaking or that is worth the unintended consequence of inciting litigation over unproven methods of service.

Instead, the Advisory Committee should write an amendment to remedy Rule 45's genuine deficiencies. Non-parties routinely face significant, unreimbursed compliance costs that can impose substantial burdens. Rule 45 does not provide them, nor courts and parties, with meaningful guidance for protecting private and confidential information held by subpoena recipients. And unlike parties, non-party subpoena recipients cannot rely on the forthcoming Rule 16 and 26 amendments to facilitate negotiations over reasonable privilege logging procedures. These three topics are real problems that affect thousands of cases and countless non-parties who deserve better protection from a rule that increasingly governs high-stakes, high-cost discovery disputes.

[57] Some courts find that "expenses" subject to cost-shifting can include privilege review and logging. *See, e.g., Hinterberger v. Am. Nurses Assn.*, 643 Fed. Appx. 310, 314 (4th Cir. 2016) (affirming magistrate judge's determination that expenses for privilege review and e-discovery services were properly shifted); *Gamefam,* 2024 WL 1181001, at *8 ("Courts in this circuit have concluded that fees incurred in production-related tasks, including creating a privilege log, are compensable expenses resulting from subpoena compliance.").

Exhibit A

Rule 45. Subpoena

***

(d) Protecting A Person Subject To A Subpoena; Enforcement.

***

(1) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required.

***

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from ~~significant~~ any reasonable expenses resulting from compliance, absent good cause.

Exhibit B

Rule 45. Subpoena

***

(d) Protecting A Person Subject to a Subpoena; Enforcement.
(1) Avoiding Undue Burden or Expense; Sanctions.
(A) A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena, to minimize the amount of personal information requested to only that which is absolutely necessary to effectuate the purpose for which the subpoena is to be issued, and to protect personally identifiable or confidential information against unauthorized access or use.
(B) The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings, and reasonable attorney's fees, costs, and expenses incurred by the responding party or any individual person harmed as a result of noncompliance—on a party or attorney who fails to comply.

***

(3) Quashing or Modifying a Subpoena

(B) When Permitted. To protect a persona subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing personally identifiable information, a trade secret, or other commercial research, development, or commercial information; or

***

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Comment from Knox Attorney Service

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Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email create more uncertainty, not less.
The current rule works well and is not the source of systemic problems.
Weakening Rule 45 may will spill into state rules and reshape subpoena practice nationwide.
The proposed amendments risk more bad service, more disputes, and more court burden.

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Comment

These proposed amendments to subpoena service are horrible. I'm a professional process server and I can tell you that you will NOT get people to show up to testify this way. If people aren't personally served, or if they don't waive their right to personal service, then they can't be held accountable when they don't show up to testify. You're going to kill our legal system. Please reconsider

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mj2-3hbx-ue6k

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Comment from Anonymous

Posted by the **United States Courts** on Dec 16, 2025

Comment

Personal service in the legal field is the only reliable method that confirms actual receipt.
Mail and email are not reliable methods of service in terms of tracking and verifying the identity of recipients.
The current rule works and is not the source of systemic problems.
Weakening Rule 45 will spill into state rules and reshape subpoena practice nationwide.
The proposed amendments risk more bad service, more disputes, and more court burden.

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Comment from Omni present investigations

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Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email create more uncertainty, not less.
The current rule works and is not the source of systemic problems.
Weakening Rule 45 will spill into state rules and reshape subpoena practice nationwide.
The proposed amendments risk more bad service, more disputes, and more court burden.

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Comment from Hart 2 Hart Investigations and Legal Support Services

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Comment

This can not be ethical! How can you hold someone accountable for not showing up to court when email, text, social media, and especially AI is ever so changing? How can you prove someone has been served by technology alone? Process Servers are being taken advantage of as it is with rules like these. Who is going to testify when someone says they were not served? I manage 4 emails and 2 others manage mine so there's not proof that I received an email. Social media - hacked every day and spoofed all the time. And again, I manage people's social media accounts and others have access to mine. USPS and Amazon make mistakes every day with deliveries and it's not dependable. Stop trying to replace humans with technology that humans create, manage, and hack every day. This will make it so easy to violate our civil rights - we have lost so much already, stop taking away our rights and our income.

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Comment from Anonymous

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Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email create more uncertainty, not less.
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The proposed amendments risk more bad service, more disputes, and more court burden.

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Comment from Eagle, Jay

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Comment

I cannot imagine e-service of subpoenas being considered as a reliable method. People change, email addresses, phone numbers and physical addresses all the time. Just because something is delivered does not mean that is actually received. I can foresee lots of witness testimony and evidence not showing up, which would prevent Justice in many cases. The point of the justice system is Justice. I think Justice would fail to prevail in many cases if we adopted this e-service process.

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Comment from Pennington Legal Investigations LLC

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Comment

This rule will erode due process and should not be passed.

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Comment from Williamson, Sheila

Posted by the **United States Courts** on Dec 16, 2025

Comment

Subject: Opposition to Proposed Amendment to FRCP 45(b)(1) — Subpoena Service

To the Advisory Committee on Civil Rules:

I submit this comment as a working process server and legal operations professional in opposition to the proposed amendment to FRCP 45(b)(1) that would normalize subpoena service by leaving it at a dwelling or sending it by mail or commercial carrier with “confirmation of receipt,” and would relax the current fee-tender expectation.

This is not about convenience. It is about constitutional due process and the integrity of notice, especially for non-parties. A subpoena is compulsory process backed by the court’s enforcement power. When service becomes less reliable, the system increases the risk that a person’s rights are affected without meaningful notice. That is a direct due process concern under the Constitution’s due process guarantees (Fifth and Fourteenth Amendments).

I. The core issue: delivery confirmation is not notice to the named person
In real-world service, “delivered” routinely does not mean the named witness actually received notice. A carrier scan, a signature, or a confirmation of receipt proves delivery to a location or to someone, not that the subpoena reached the correct individual, was understood, and provided a fair opportunity to comply or object.

As someone who has served in the field and managed subpoena and service operations across many states, I have seen countless situations where documents left at a residence or accepted by a third party later become the center of a service challenge. Subpoena enforcement should not hinge on assumptions about who received an envelope.

II. The predictable consequences

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If these methods become standard options, the system will see more of the following:

A. Wrong-person receipt
Roommates, family members, building staff, mailrooms, reception desks, and shared addresses are not the named witness.

B. More motion practice, delays, and court burden
When the witness does not appear, the case shifts into collateral litigation over service validity, including motions to compel, motions to quash, and enforcement hearings. Courts will spend more time litigating “who got it” instead of adjudicating the merits.

C. More unfair outcomes for non-parties
Non-parties are often unrepresented and unfamiliar with legal obligations. They deserve the highest confidence that notice was actually received before contempt risks and enforcement pressure enter the picture.

III. Fee tender matters because legitimacy and compliance matter
Relaxing the expectation of fee tender at service undermines the clarity and perceived legitimacy of compulsory process. Tendering the statutory witness fee and mileage at service is not a technicality to working people. It signals that the subpoena is official, lawful, and issued in good faith. “Show up first, then we’ll pay you” invites confusion, resistance, and disputes at the appearance stage.

IV. Electronic service should not be normalized
Email and electronic delivery should not be treated as routine subpoena service without a case-specific court order. People maintain multiple email addresses, abandon accounts, lose access, or have messages filtered as spam. In skip tracing, it is common to see numerous possible emails for one person, and it is often unclear which is active. Treating an email send as “service” is a downgrade in reliability and a threat to due process for non-parties.

V. A narrower path that protects due process
If the Committee wants to clarify Rule 45, it can do so without weakening notice:

A. Keep personal delivery to the named person as the default for non-parties.
B. If mail or carrier service is permitted, require safeguards that tie receipt to the named witness, not merely to an address or third party.
C. Keep electronic or alternative methods strictly court-ordered on a specific showing that the method is reasonably calculated to provide actual notice in that case.

VI. Conclusion
As drafted, the proposed amendment will predictably increase contested service, enforcement litigation, and unfair outcomes for witnesses who never truly received notice. I urge the Committee to revise the amendment to protect due process and preserve the integrity of subpoena service.

Respectfully,

Sheila Williamson
Process Server / Rook Legal Solutions
Bremerton, WA

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Comment from Williamson, Carter

Posted by the **United States Courts** on Dec 16, 2025

Comment

This proposal should not move forward. Expanding judicial authority to allow alternative and largely untested service methods would not make subpoena service more efficient. Instead, it would create uncertainty and lead to more disputes over whether service was valid. Allowing service by email or social media—often without reliable proof that the subpoena was actually received—would invite challenges under a vague “reasonably calculated” standard and increase contested service litigation.

This risk is especially concerning because Rule 45 allows courts to impose contempt sanctions for noncompliance. Expanding service methods raises the possibility that individuals could be penalized despite never receiving actual notice. While the Preliminary Draft includes some safeguards, they do not outweigh the core problem: the amendment is unnecessary and would likely create more disputes, not fewer.

There is also little support for changing the requirement to tender witness fees at the time of service. The examples cited involve unusual circumstances or easily avoidable issues, not defects in the rule itself. Requiring fees at service provides a clear, predictable rule that protects non-parties and encourages compliance. Delaying payment would add uncertainty, undermine these protections, and offer no meaningful benefit.

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Comment ID
USC-RULES-CV-2025-0004-0016

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Comment from Zodiac Legal Process

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Comment

This will destroy the integrity of the service of process, plain and simple!

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USC-RULES-CV-2025-0004-0017

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mj7-lqq2-qmf1

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Comment from Serve's Up Process Services, LLC

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Comment

I am a professional process server, and I submit this comment to express concern regarding the proposed amendments to Rule 45 governing service of subpoenas.

Subpoenas are not routine correspondence. They carry the potential for contempt sanctions and other serious legal consequences. For that reason, service of subpoenas should prioritize certainty, accountability, and protection of due process, not convenience.

The proposal to permit service by U.S. mail or commercial carrier based on “confirmation of receipt” raises significant concerns. The term is undefined and invites dispute. Receipt confirmation does not establish who accepted the documents, whether the recipient was authorized, or whether service complied with the intent of the rule. These ambiguities will increase litigation, not reduce it.

Professional process servers do more than deliver documents. We are trained, neutral officers who ensure lawful notice, document service under oath, and provide courts with reliable proof that service was properly completed. Mail and courier services cannot replicate this level of accountability or evidentiary reliability.

I am also concerned that expanding alternative service methods for subpoenas sets a precedent. Federal procedural rules often influence state rulemaking. Normalizing non-personal service in this context risks gradual erosion of personal service standards more broadly, weakening due process protections over time.

If service methods are expanded, they should remain narrow, exceptional, and subject to meaningful court oversight. Personal service by trained professionals should continue to be the preferred and presumptive method when contempt and sanctions are at stake.

I respectfully urge the Committee to carefully consider the downstream consequences of these amendments on due process, judicial efficiency, and the integrity of service of process.

Give Feedback

Thank you for the opportunity to comment.

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Tracking Number

mj7-o7e7-r3pl

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Comment from Mighty Process Server

Posted by the **United States Courts** on Dec 16, 2025

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Comment

Summary of File Attached: I respectfully oppose changes that would expand subpoena service by mail or commercial carrier with undefined “confirmation of receipt,” authorize court-approved alternative methods based on vague standards, and permit delayed tender of witness fees. In practice, these proposals risk increasing disputes and motion practice, weakening certainty of notice for non-parties subject to contempt power, shifting the burden to recipients to prove non-receipt, encouraging gamesmanship, and setting a precedent likely to influence state rules over time. For these reasons, I urge the Committee to preserve personal service as the gold standard for enforceable notice, retain the contemporaneous tender requirement for witness fees, and reject amendments that prioritize convenience over due process.

Attachments 1

Mighty Process Server Comment on Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0019/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0019

COMMENT
to the
ADVISORY COMMITTEE ON CIVIL RULES

Mighty Process Servers is a national professional organization representing service of process and legal support professionals operating in all fifty states, including individual practitioners and multi-jurisdictional firms that routinely effect service of subpoenas, summonses, complaints, and other compulsory legal process in federal and state courts. The organization is committed to advancing the highest standards of professionalism, accuracy, and ethical conduct within the service of process industry, with a particular emphasis on safeguarding due process rights and ensuring reliable, verifiable notice to parties and non-parties subject to court authority. Through education, professional guidance, and industry leadership, Mighty Process Servers supports thousands of working professionals who possess direct, practical experience with the application of Federal Rule of Civil Procedure 45 and the consequences of procedural rule changes affecting subpoena service. Accordingly, the organization has a substantial and direct interest in the proposed amendments to Rule 45 and submits its comments to assist the Advisory Committee by providing the perspective of professionals whose work is integral to the effective, fair, and constitutionally sound operation of compulsory process under the Federal Rules of Civil Procedure.

PUBLIC COMMENT ON PROPOSED AMENDMENTS TO FEDERAL RULE OF CIVIL PROCEDURE 45

To the Advisory Committee on Civil Rules,

I submit this comment as (1) a professional process server with over ten years of direct, hands-on experience serving subpoenas and other legal process, (2) a community leader who educates and supports thousands of process servers nationwide, and (3) a citizen of the United States who deeply understands and values the constitutional importance of due process.

I respectfully oppose the proposed amendments to Rule 45 that expand permissible methods of subpoena service, delay tendering of witness fees, and authorize alternative service methods based on vague standards. While these changes may appear to increase efficiency, convenience should never outweigh certainty, fairness, and the protection of non-parties whose liberty and finances may be at stake.

Just because something is easier does not make it right.

1. Expanding service by mail or commercial carrier undermines certainty and invites disputes

In my professional experience, the single most important function of service of process is not delivery, it is **verifiable notice**. I have personally handled countless situations where recipients denied receipt, claimed someone else signed, or asserted they never saw documents that were allegedly "delivered."

Under the proposed rule, "confirmation of receipt" is undefined. As a process server, I know exactly how this plays out in real cases:

- A courier delivers to a front desk, mailroom, or household member.
- A signature exists, but it is not the named person.
- The recipient later denies actual notice causing cases to restart.
- Litigation ensues over whether service was effective.

These disputes do not reduce litigation, they create it. Personal service by a trained professional provides sworn proof, contextual detail, and accountability that mail and courier services simply cannot match.

When subpoenas carry contempt sanctions under Rule 45(g), uncertainty about notice is unacceptable.

2. Court-authorized "alternative methods" create a dangerous slippery slope

The proposal allows courts to authorize alternative service methods that are merely "reasonably calculated" to give notice. As someone who has testified and provided tens of thousands of affidavits regarding service, I know how subjective and speculative this standard becomes in practice.

Once this authority exists:

- Courts may approve email, text, or social media service with little evidentiary foundation.
- These decisions are often made ex parte.
- The burden shifts to the recipient — often a non-party — to later argue they never received notice.

I have seen how often people change email addresses, ignore unknown messages, or have accounts compromised. Approving untested methods risks subjecting people to court sanctions without meaningful notice.

This is especially concerning because subpoenas primarily target non-parties, who did not choose to be involved in the litigation.

3. Delaying witness fee tender harms compliance and fairness

In my career, tendering witness fees at the time of service has served an important purpose: it signals legitimacy, fairness, and respect for the recipient's time and expense.

I have personally observed that:

- Witnesses are more cooperative when fees are properly tendered.
- Failure to tender fees breeds distrust and resistance.
- Non-parties should not be forced to front costs or rely on later reimbursement when often it does not materialize without a fight..

Allowing delayed tender encourages gamesmanship and places the financial risk on individuals who have no stake in the case. That is inconsistent with the historic purpose of Rule 45: protecting witnesses from abuse of compulsory process.

4. These changes threaten due process and set a precedent for state rules

Although these amendments concern subpoenas, not summons, I am deeply concerned about the precedent they establish. Federal rules routinely influence state rulemaking. I have watched states adopt federal procedural concepts years after their introduction.

Normalizing non-personal service methods, vague confirmation standards, and diminished safeguards at the federal level makes it only a matter of time before similar arguments are raised against personal service requirements in state courts.

As someone whose profession exists to safeguard notice and due process, I find this deeply troubling.

5. The current rule is not broken, but the consequences of change are real

The Advisory Committee itself has acknowledged that service of subpoenas rarely presents systemic problems. Expanding service methods based on rare anecdotes risks trading a system that works for one that creates uncertainty, motion practice, and inconsistent outcomes.

I have seen firsthand that when service is unclear, the entire case suffers:

- Hearings are delayed
- Depositions are rescheduled

- Costs increase
- Courts are burdened with avoidable disputes

Professional process servers exist precisely to prevent these outcomes.

Conclusion

The proposed amendments prioritize convenience over certainty and efficiency over fairness. In a system where subpoenas can compel testimony, documents, and impose sanctions, notice must be beyond doubt.

I respectfully urge the Advisory Committee to:

- Reject the expansion of service methods under Rule 45
- Retain the requirement to tender witness fees at the time of service
- Preserve personal service as the gold standard for enforceable legal notice

Due process is not an inconvenience. It is a constitutional promise.

Thank you for considering the perspective of those who work every day to uphold that promise.

Respectfully submitted,

MIchael Reid, President

mike@mightyautomation.com
mightyprocessserver.com

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Comment from Lubin, Alix

Posted by the **United States Courts** on Dec 16, 2025

Comment

I submit this comment as a professional process server with firsthand experience serving subpoenas and other court documents. Subpoenas carry serious legal consequences, including potential contempt and sanctions, and therefore require service methods that prioritize certainty, accountability, and verifiable notice. Personal service by trained professionals ensures that recipients receive lawful notice and understand the gravity of the court's command, which is essential to protecting due process.

The proposed expansion of service by mail or commercial carrier based on "confirmation of receipt" raises significant concerns. The term is undefined and invites disputes over who accepted delivery, whether the intended recipient had actual notice, and whether the legal significance of the document was understood. These uncertainties do not improve efficiency; they increase litigation and undermine confidence in the service process. Professional process servers provide sworn proof of service and act as neutral, accountable witnesses—protections that mail and courier services cannot offer.

Finally, federal procedural rules often serve as models for state-level rulemaking. Normalizing non-personal service for subpoenas risks setting a precedent that could weaken personal service standards more broadly. Any expansion of alternative service methods should be narrow, exceptional, and subject to meaningful court oversight. Convenience should not outweigh due process when court-ordered compliance and sanctions are at stake. Professional process servers exist to protect the integrity of the judicial system, and Rule 45 should continue to reflect that role.

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USC-RULES-CV-2025-0004-0020

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Comment from Anonymous

Posted by the **United States Courts** on Dec 16, 2025

Comment

I am a professional process server who regularly serves subpoenas and other court documents. I am submitting this comment because the proposed amendments to Rule 45 raise serious concerns about reliability, due process, and unintended consequences for litigants and the courts.

Personal service by trained, accountable professionals plays a critical role in ensuring lawful notice, accurate proof of service, and confidence that the correct individual was served. Subpoenas carry potential contempt sanctions and legal consequences, and the method of service must meet a high standard of certainty. When service is performed by a professional process server, courts receive sworn declarations based on firsthand observation, not assumptions or indirect delivery methods.

Expanding service by mail or commercial carrier and relying on “confirmation of receipt” will increase disputes rather than reduce them. Questions such as who actually received the documents, whether the recipient was authorized, or whether the subpoena reached the intended individual will inevitably lead to motion practice and litigation over service. These uncertainties undermine efficiency and weaken due process protections for all parties.

While convenience is important, it should not outweigh reliability where legal obligations and potential sanctions are involved. Normalizing alternative service methods for subpoenas risks eroding long-standing safeguards and may create precedents that expand beyond subpoenas into other areas of civil procedure.

I respectfully urge the Committee to consider the practical, real-world impact of these changes and to preserve the role of personal service by qualified professionals as the most reliable and defensible method of service when serious legal consequences are at stake.

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Comment ID

USC-RULES-CV-2025-0004-0021

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mj7-qjn3-c8tc

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Comment from Long, Richard

Posted by the **United States Courts** on Dec 16, 2025

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

Greetings My name is Richard Long and this is the reasons I am against changing the rules of civil procedures for handling legal process both professionals "as I am a Process Server" but also as an Individual Citizen of the Great Country of America!

* These changes will reduce reliability, increase disputes, and weaken due process

* Personal service by trained professionals is critical when contempt and sanctions are at stake

* Expanding mail and alternative service creates risks that outweigh convenience

* Subpoenas carry contempt consequences; service should prioritize certainty, not convenience

* “Confirmed receipt” is undefined and invites litigation

* Professional process servers provide accountability that mail and couriers cannot

* Federal rules influence state rules — this sets a dangerous precedent

* Any expansion of service methods should be narrow, exceptional, and court-supervised

This is about protecting due process AND our profession

Process servers exist for a reason:

* We are neutral

* We document service properly

Give Feedback

* We protect the integrity of the judicial system.

Thank you for your time to read and consider these points I have listed for you.

Richard Long
Registered Process Server
San Bernardino, California

Comment ID

USC-RULES-CV-2025-0004-0022

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mj7-ri56-1voa

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Comment from Hagood, Mark

Posted by the **United States Courts** on Dec 16, 2025

Comment

I respectfully believe this will cause great problems. Most people to include companies will use this as an excuse to not comply. The current system while not perfect is much better than this proposal and has worked and does work.

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USC-RULES-CV-2025-0004-0023

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mj7-u203-ps7c

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Comment from Anonymous

Posted by the **United States Courts** on Dec 16, 2025

Comment

This bad news for all parties. A majority of my jobs are bad addresses. People don't change their mailing address. I have a new mail courier who can't deliver mail correctly. Seems like another government scam

Comment ID
USC-RULES-CV-2025-0004-0024

Tracking Number
mj7-upq8-u8rh

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Comment from Paper Monkey Legal Services

Posted by the **United States Courts** on Dec 16, 2025

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Public Comment on Proposed Amendments to Federal Rule of Civil Procedure 45

Docket: USC-RULES-CV-2025-0004
Submitted by: Greg Taylor, Professional Process Server (NAPPS Member)

I submit this comment regarding the proposed amendments to Federal Rule of Civil Procedure 45. My perspective comes from extensive professional experience with the service and enforcement of subpoenas. I support modernization where it improves clarity and efficiency, but I am concerned that the proposal as drafted risks introducing ambiguity that will burden courts, increase disputes, and weaken confidence in compelled compliance.

Subpoenas are not routine litigation notices. They impose obligations on non-parties and carry potential contempt consequences under Rule 45(g). Because of this coercive character, service of a subpoena has historically required a higher level of certainty than ordinary notice. Enforceability depends on clarity at the moment service occurs—clarity as to who received notice, when it was received, and whether the recipient understood its compulsory legal significance.

The proposed amendments move away from that clarity.

Due process requires notice “reasonably calculated, under all the circumstances, to apprise interested parties” of the obligations imposed upon them. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Allowing service based on undefined “confirmation of receipt” introduces uncertainty at precisely the point where certainty is most important. In practice, confirmation of receipt often reflects acceptance by an intermediary rather than the named individual. When enforcement is later contested, courts are left to reconstruct actual notice after the fact, turning service into an evidentiary dispute rather than a threshold determination.

Give Feedback

I have personally encountered matters in which subpoenas delivered through indirect means were accepted by office staff or mailroom personnel, only for the named individual to later deny knowledge of the subpoena. Enforcement then stalled while courts evaluated service adequacy. The result was not efficiency, but motion practice and delay. The proposed amendment risks making such scenarios routine rather than exceptional.

The lack of a definition for “confirmation of receipt” compounds this concern. Discretion without standards invites inconsistent outcomes across districts, satellite litigation, and eventual appellate review. Courts have long rejected service methods prone to failure or ambiguity for this reason. Greene v. Lindsey, 456 U.S. 444 (1982).

The proposal’s removal of the requirement to tender witness and mileage fees at the time of service further undermines enforceability. Contemporaneous tender has long served as a fairness safeguard for non-parties compelled to assist the court. Eliminating this requirement shifts financial uncertainty onto individuals with no stake in the litigation and increases disputes over compliance. In practice, timely tender promotes cooperation; its absence often does the opposite.

None of this is to suggest that flexibility has no place in modern civil procedure. There are circumstances in which personal service may be impracticable. The issue is not whether alternative service should ever be permitted, but whether it should be normalized without defined limits or judicial findings.

A narrower approach would better serve the courts. Personal service should remain the default method for serving subpoenas, with alternative service permitted only by prior court order upon a showing that personal service is impracticable or unduly burdensome. Any authorized alternative should be required to be reasonably calculated to provide actual notice to the named individual, and the order should identify both the approved method and the factual basis for its use. Contemporaneous tender of witness and mileage fees should likewise remain the default, with any exception requiring court approval.

Finally, amendments to the Federal Rules rarely remain confined to federal practice. State rule committees routinely consult the Federal Rules as models. Ambiguity introduced at the federal level often propagates into state systems without the original limitations. Careful drafting now can prevent broader erosion later.

Subpoenas derive their authority not from convenience, but from trust in the process that delivers them. When service is clear and accountable, compliance is straightforward and enforcement is efficient. When service becomes ambiguous, courts inherit the burden. For these reasons, I respectfully urge the Committee to reconsider the proposed amendments to Rule 45 as drafted and to adopt a narrower, court-supervised alternative that preserves both flexibility and due process.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0025

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mj7-vl1i-yex7

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Comment from Integrity Discovery Solutions Group

Posted by the **United States Courts** on Dec 16, 2025

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

I am a professional process server who works every day to uphold the integrity of the judicial process. I am an owner of a Litigation Support Services company known as Integrity Discovery Solutions Group my name is Natasha. I submit this comment out of respect for the rule-making process and out of deep concern for the proposed changes to Rule 45 regarding subpoenas.

Subpoenas carry the weight of contempt, sanctions, and serious legal consequences. Because of this, service must prioritize Certainty, Accountability, and Due Process—not convenience. Expanding service methods beyond trained process servers can be risky such as weakening one of the most fundamental safeguards in our legal system: Reliable Notice and Due Process.

A vague standard cannot replace the accountability and documentation that trained process servers provide. We are neutral third parties trained to verify identity, record attempts, document timing, and ensure compliance. Mail, electronic delivery, or courier methods cannot match the reliability or evidentiary value of personal service by a qualified professional.

Due Process should never be eroded for the sake of convenience, especially when someone's liberty or property interests are at stake. To understand the impact of these changes, it is important to recognize what professional process servers provide:

o We are neutral. Process servers act as impartial third parties—an essential safeguard for due process. Our neutrality ensures there is no vested interest in the outcome of a case, only in delivering lawful notice. Because subpoenas can lead to contempt or sanctions, the server must be someone who cannot be accused of bias or coercion. Neutrality protects litigants, preserves fairness, and prevents challenges that delay proceedings.

o We document service with precision. Proper documentation is the legal foundation of valid service. Professionals record dates, times, attempts, descriptions, and interactions with detail that withstand courtroom scrutiny. Our affidavits, timestamps, GPS records, and body-camera evidence provide a reliable evidentiary record. This level of documentation prevents disputes, reduces ambiguity, and ensures court orders remain enforceable.

Give Feedback

o We provide accountability. Accountability is central to the rule of law. Courts rely on trained professionals who can authenticate records, provide sworn testimony, and stand behind their work. Process servers follow statutory requirements and best practices that ensure lawful service. By contrast, alternative methods with the missing documents such as chain-of-custody protection it can make it difficult to prove who received documents or whether proper notice occurred. Without accountability, disputes increase and Due Process weakens.

o We protect the integrity of the judicial system. Service of process is the gateway to justice. When notice is reliable, courts can proceed confidently; when it is uncertain, the entire system is affected. Professional process servers prevent wrongful defaults, ensure individuals understand their obligations, and reduce the risk of appeals based on insufficient service. Weakening service standards does not improve efficiency—it increases invalid service, delays, and procedural challenges. Verified personal service upholds the constitutional principles on which Due Process was built.

I stand not only for myself, but for thousands of dedicated professionals who take this responsibility seriously we are the Process Server Community. The proposed changes to Rule 45 do not strengthen the courts—they place them, and the people they serve, at greater risk. This is about Fairness, Due Process, and Maintaining the Highest Standards of Reliability.

For these reasons, I respectfully urge reconsideration of the proposed changes to Rule 45. I am speaking up in hopes what was said above will show all of us the importance of Due Process, and the work of the Professional Process Server can make a difference and such compromises in regards to the rule 45 regarding subpoenas will hurt our profession and the rights of those we serve.

Thank you for taking the time to consider this comment.

Natasha McDaniel

Comment ID

USC-RULES-CV-2025-0004-0026

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mj7-wdwu-eed5

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Comment from Anonymous

Posted by the **United States Courts** on Dec 16, 2025

Comment

I respectfully oppose the proposed expansions to service by mail and alternative methods. These changes would reduce reliability, increase disputes, and undermine due process — the cornerstone of our legal system.

Subpoenas carry serious consequences, including the potential for contempt and sanctions. Service in these matters should prioritize certainty, not convenience. When liberty or rights are at stake, courts must have absolute confidence that the party was properly served. Yet the term “confirmed receipt” remains undefined, leaving too much room for error, ambiguity, and abuse.

Personal service by trained, neutral professionals provides accountability that no electronic or mail method can replicate. Process servers document service properly, verify identities, and adhere to strict standards that protect all parties and the integrity of the judicial system.

Expanding service options may appear efficient on paper, but the practical risks far outweigh any convenience. Effective service ensures fairness, trust, and compliance—values that should never be compromised for speed or cost savings.

Any expansion of alternate service methods should remain narrow, exceptional, and court-supervised. Protecting due process protects not just litigants, but the credibility of the entire judicial process.

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USC-RULES-CV-2025-0004-0027

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mj7-yysf-gjyk

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Comment from Central Texas Litigation Support Services Inc.

Posted by the **United States Courts** on Dec 16, 2025

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Comment

We having been in the process serving profession for over 30 years violently oppose the proposed changes to the requirement of personal service of subpoenas. We have seen and been a part of many aspects where we can see too many opportunities for poor, ineffective service utilizing any procedure other than personal service.

Comment ID
USC-RULES-CV-2025-0004-0028

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mj8-07a7-ovtc

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Comment from Downey Investigations

Posted by the **United States Courts** on Dec 16, 2025

Comment

These proposed rules jeopardize the honesty and integrity of due process and the purpose of having certified process servers.

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USC-RULES-CV-2025-0004-0029

Tracking Number
mj8-1qe5-51sq

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Comment from Charm City Process Services and Notary

Posted by the **United States Courts** on Dec 16, 2025

Comment

Irt will put us, Process Server's out of business or at least reduce a significant amount of our work. The courts will not be able to verify all of the receipts from the carriers and place them in file. There will be slip ups of verification of the person who is signing the receipt.

Comment ID
USC-RULES-CV-2025-0004-0030

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mj8-catp-fqo7

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Comment from Patton Legal Services

Posted by the **United States Courts** on Dec 30, 2025

Comment

I am writing to respectfully express concern regarding proposed or potential changes to the Federal Rules governing service of process—particularly any changes that would weaken or eliminate the requirement for personal service of subpoenas or other court documents.

I am the owner of a professional process-serving company that works daily with attorneys, courts, and litigants to ensure that notice is provided in a manner consistent with due process. My purpose in writing is not to oppose modernization, but to highlight the unintended legal and practical consequences that reduced service standards may create.

Personal service has long existed not for convenience, but for certainty. It provides courts with reliable, sworn evidence that notice was actually delivered to a real person, at a real location, by a neutral third party. This certainty protects all parties—plaintiffs, defendants, witnesses, and the judiciary itself.

Allowing broader alternatives such as email service, automated delivery systems, or presumptive receipt may increase efficiency in some cases, but it also introduces significant risk:

- Increased disputes over whether notice was actually received
- Greater opportunity for evasion or abuse
- Reduced reliability of enforcement actions
- Additional burdens on courts to resolve service challenges after the fact

In practice, service failures do not eliminate litigation—they delay it, shifting cost and uncertainty downstream to judges, clerks, and litigants.

It is also important to recognize that professional process servers do far more than “deliver papers.” We document conditions, verify identities, observe evasive conduct, and provide sworn testimony when service is challenged. These facts often become critical when a case is contested. Weakening service requirements diminishes the evidentiary foundation courts rely on to enforce compliance.

Give Feedback

Finally, I urge consideration of the broader impact on small businesses and independent professionals who serve as a vital part of the justice system's infrastructure. Many local and regional service providers operate with high standards of accountability, training, and compliance. Sudden rule changes risk eliminating this professional layer without offering a proven replacement that preserves reliability and fairness.

I respectfully ask that any rule changes:

- Preserve personal service as the default standard where rights or obligations are compelled
- Require clear judicial oversight for alternative service methods
- Balance efficiency with due-process protections, not at their expense

Thank you for your time, consideration, and service. I would welcome the opportunity to provide practical insight from the field or participate in any public comment process.

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USC-RULES-CV-2025-0004-0031

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mj9-ew6l-2twn

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Comment from Figurate, Matthew

Posted by the **United States Courts** on Dec 30, 2025

Comment

I am a process server who prides himself on the personal touch of field work. I've been serving for four years and in that time I've dealt with many cases where the servee wasn't just simply not at home, but had moved recently and is no longer at the residence entirely. At this point I ask neighbors and do the work to see if I can locate the servee. If mailing is allowed in the future, the rate of non-services would sky rocket People change emails all the time and servees may have multiple residences where a personal service is necessary to save money on multiple mailed out documents. A personal touch is necessary for the service of incredibly personal documentation. Knowing a witness received a subpoena personally can be the difference between resolving court cases and just creating new ones if the witness or defendant doesn't show up to court.

Comment ID
USC-RULES-CV-2025-0004-0032

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mja-9bxq-s1eh

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Comment from Locate Process Servers

Posted by the **United States Courts** on Dec 30, 2025

Comment

Making this change will dramatically affect the security level of subpoenas citations and proof of service. The result will be missed court dates, family court matters such as child support, custody and visitation will go unresolved. This can affect the well being of the people involved. Missed court dates can lead to Default Judgements. We have enough human services that are now being done with A-I. When does it stop? This is bad legislation put your energy into something like healthcare.

Comment ID
USC-RULES-CV-2025-0004-0033

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mja-arjr-391a

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Comment from United Legal Support Services

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See attached PDF file.

Attachments 1

Public Comment Federal Rule 45 - by Dennis Barber - Version 3.0

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0034/attachment_1.pdf)

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mja-p179-g4m4

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PUBLIC COMMENT on Proposed Amendments to Federal Rule of Civil Procedure 45

Submitted to the Advisory Committee on Civil Rules
By **Dennis Barber**, Managing Director
United Legal Support Services, Inc.
December 10, 2025

INTRODUCTION

I appreciate the opportunity to provide input on the proposed amendments to Rule 45. My perspective comes from decades of direct involvement in the service of process industry and from leading a multi-state legal support agency. Our teams work daily in environments where accuracy, verification, and accountability are not optional; they are essential.

While modernization of the rules is important, it must not compromise the fundamental safeguards of due process. The proposed expansion of service methods risks undermining reliability and creating unnecessary disputes. The Committee's own findings confirm that service problems under Rule 45 are rare, which suggests the current framework is functioning effectively.

Personal Service as the Cornerstone of Due Process

A subpoena is not a routine notice; it carries significant consequences. Non-parties may be compelled to appear, produce sensitive records, or face contempt sanctions. In this context, actual receipt is not a mere procedural formality; it is a constitutional safeguard grounded in due process principles recognized in *Mullane v. Central Hanover Bank and Co*. [339 U.S. 306 (1950)] reaffirmed in *Jones v. Flowers* [547 U.S. 22 (2006)].

Personal service uniquely provides:

- Direct delivery to the intended recipient.
- Documentation through sworn affidavits.
- A live witness who can testify to the facts of service.
- Verification of identity and address validity.

By contrast, mail, email, and commercial carriers lack these protections. In practice, we routinely encounter:

- Signatures from unrelated third parties.
- Packages left in communal areas.
- Deliveries to outdated addresses.
- Emails filtered, ignored, or tied to inactive accounts.
- Carrier scans that confirm drop-off but not human receipt.

These are not rare anomalies. They are predictable failure points that professional servers spend their careers correcting.

Risks of Expanding Alternative Methods

The draft proposal suggests that broadening service methods will reduce litigation. In reality, ambiguous methods produce ambiguous outcomes. Courts will be asked to decide whether service was sufficient when:

- An email was sent but never opened.
- A package was signed for by someone other than the witness.
- A "last known address" was outdated.
- A residence substitute service occurred at a location no longer occupied.

Each scenario invites motions to quash, disputes over notice, and potential sanctions against individuals who never received actual notice. The current rule avoids these pitfalls precisely because it requires a method that overcomes them.

Modern Mobility and Digital Realities

The assumption that email or mail is inherently reliable does not reflect modern realities. Today, individuals often maintain multiple residences, use commercial mail drops, or rely on employer-controlled addresses. Digital communication is equally fraught; spam filters, auto-sorting, inactive accounts, and even spoofed identities all create risk.

Professional process servers navigate this complexity daily. They verify information, confirm occupancy, and adapt to human variables that automated systems cannot detect. A rule that treats digital or mailed delivery as equivalent to personal service is out of step with how people actually live and communicate.

Lack of Empirical Support

The Committee's own review identified only two cases involving service difficulties, both tied to individuals actively evading service. The problem was not the rule; it was the conduct of the parties. There is no empirical evidence that the current requirements cause widespread issues, nor that shifting to mail or email would improve compliance.

Safeguards Are Helpful but Insufficient

The draft's proposed safeguards (signature confirmation and a fourteen-day notice period) are sensible but incomplete. A signature does not confirm identity or residence, nor does it ensure the recipient understood the subpoena. Similarly, email read receipts and carrier scans provide no assurance of actual receipt by the intended witness.

Recommendations

To preserve reliability and fairness, I respectfully recommend:

1. **Maintain personal service as the preferred method** for subpoenas requiring appearance or testimony.
2. **Permit alternative methods only after reasonable, documented attempts at personal service have failed.**
3. **Require clear evidence of actual receipt** when alternative methods are used, not merely proof of delivery to an address.

CONCLUSION

The proposed amendments risk replacing a clear, reliable standard with one that introduces uncertainty and higher failure rates. Convenience should not outweigh verifiable notice and due process protections. Personal service is not an outdated tradition; it is the safeguard that ensures fairness, accuracy, and accountability in the justice system.

Respectfully submitted,
Dennis Barber
Managing Director
United Legal Support Services, Inc.

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Comment from Kimbrough, Sandra

Posted by the **United States Courts** on Dec 30, 2025

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Comment

I have attached my letter to oppose this rule change: The proposed amendments to Rule 45 prioritize convenience over certainty and efficiency over fairness. In a system where subpoenas compel testimony, production, and compliance under threat of sanction, notice must be beyond doubt.

I respectfully urge the Advisory Committee to:

Reject the expansion of permissible service methods under Rule 45

Retain the requirement to tender witness fees at the time of service

Preserve personal service as the gold standard for enforceable legal notice

Due process is not an inconvenience—it is a constitutional promise.

Thank you for considering the perspective of those who work daily to uphold that promise.

Respectfully submitted,

Sandra Kimbrough
Administrator, Swan Legal Services LLC
East Regional Director, Texas Process Servers Association (TPSA)

Attachments 1

Give Feedback

Rule_45_Comment_Sandra_Kimbrough_Swan_Legal_Services

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Comment to the Advisory Committee on Civil Rules
Regarding Proposed Amendments to Federal Rule of Civil Procedure 45

Submitted by:
Sandra Kimbrough
Administrator, Swan Legal Services LLC
Licensed Private Investigator & Certified Process Server (Texas)
East Regional Director, Texas Process Servers Association (TPSA)

I submit this comment in my professional capacity as (1) a Certified Process Server with more than seven years of direct, hands-on experience serving subpoenas and other civil process, (2) the Administrator of Swan Legal Services LLC, a Texas-based legal support services firm providing subpoena service in compliance with Judicial Branch Certification Commission (JBCC) rules and the Texas Rules of Civil Procedure, (3) East Regional Director of the Texas Process Servers Association (TPSA), where I mentor and educate process servers on lawful, ethical service practices, and (4) a citizen of the United States who deeply understands and values the constitutional importance of due process.

I respectfully oppose the proposed amendments to Rule 45 that would expand permissible methods of subpoena service, allow delayed tender of witness fees, and authorize alternative service methods based on vague and subjective standards. While these changes are presented as efficiency measures, convenience should never outweigh certainty, fairness, and the protection of non-parties whose liberty, finances, and legal obligations may be directly affected.

1. Expanding service by mail or commercial carrier undermines certainty and invites dispute
In my professional experience as a JBCC-regulated process server, the most critical function of service of process is not mere delivery—it is verifiable, defensible notice. Mail or courier delivery frequently results in disputes over receipt, identity of the signer, and actual notice. These disputes increase litigation rather than reduce it. When subpoenas carry contempt sanctions under Rule 45(g), uncertainty surrounding notice is unacceptable.

2. Court-authorized alternative methods create a dangerous standard
Allowing service methods based on whether they are “reasonably calculated” to provide notice invites subjectivity and abuse. Informal methods such as email or electronic messaging are unreliable and place the burden on non-parties to later prove non-receipt, exposing them to sanctions without meaningful notice.

3. Delaying tender of witness fees undermines fairness
Tendering witness fees at the time of service signals legitimacy and respect. Delayed tender shifts financial risk to non-parties and contradicts the protective purpose of Rule 45.

4. Federal changes risk influencing state due-process standards
Federal procedural changes routinely influence state rulemaking. Weakening service safeguards at the federal level risks erosion of due-process protections in state courts.

5. The current rule works
Service of subpoenas does not present widespread systemic problems. Expanding service methods

based on isolated anecdotes risks creating uncertainty, increased motion practice, and inconsistent outcomes.

Conclusion
The proposed amendments prioritize convenience over certainty. I respectfully urge the Advisory Committee to reject the expansion of service methods, retain witness fee tender requirements, and preserve personal service as the gold standard for enforceable legal notice.

Due process is not an inconvenience. It is a constitutional promise.

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Comment from Reeves, Joseph

Posted by the **United States Courts** on Dec 30, 2025

Comment

I express my strong opposition to the proposed change to FRCP Rule 45. Instituting this change will negatively affect due process and the integrity of service outcomes. The task of ensuring good service - getting the right document to the right person at the right address, in accordance with applicable laws, and verifying it all - the good service that is deserved by the plaintiff, the defendant, and the Justice System, cannot be left up to an overworked underpaid uninterested mail carrier or an unreliable ad-supported free email service. Personal service, by a trained, experienced process server who understands the liberties and restrictions of the Federal Rules of Civil Procedure, is the only way to ensure due process is respected and afforded to those needing it.

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Comment from Anonymous

Posted by the **United States Courts** on Dec 30, 2025

Comment

These rule changes will cause exponentially more litigation about received and proper service of process. Not to mention destroying small minority owned businesses across the United States.

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USC-RULES-CV-2025-0004-0037

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mjh-dsi2-jght

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Comment from The Law Firm of Kitrick, Lewis & Staley-Sladek Co., L.P.A.

Posted by the **United States Courts** on Jan 5, 2026

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See attached file(s)

Attachments 1

Rule 45 (b)- Final - Comment from Mark Kitrick -1-2-26

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0039/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0039

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mjw-z7p7-eg0x

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The Law Firm of

Kitrick, Lewis & Staley-Sladek Co., L.P.A.

445 Hutchinson Avenue, Suite 830
Columbus, Ohio 43235-8614

Mark Kitrick
Mark Lewis
Brandi Staley-Sladek
Charles J. Kettlewell*

Of Counsel

January 2, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

To Whom it May Concern for Public Comment on **Rule 45 (b):**

I am a plaintiff trial lawyer now going on 45 years. I submit that the proposed amendment to Rule 45 (b) appropriately modernizes subpoena service while preserving due process, judicial oversight, and the continued primacy of traditional personal service. It reflects a measured and necessary response to practical problems that increasingly arise in modern litigation.

The need for alternative methods of service arises in a limited but important category of cases such as those in which individuals or entities actively evade service or cannot be reached through reasonable traditional efforts. In such circumstances that we often see, the absence of authorized alternatives ends up leading to delay, unnecessary expense, and, at times, the inability to obtain critical evidence.

The amendment does not supplant personal service as the default. On the contrary, it provides a narrowly tailored mechanism to address exceptional situations where traditional service has proven ineffective despite diligence.

The concerns that the amendment will undermine traditional process-serving businesses does seem unfounded. From my now going on 45 years of trying cases, personal service remains the most reliable and efficient method and will continue to be used in the vast majority of matters. The proposed rule does not incentivize bypassing process servers; instead, it presupposes their use and applies only after traditional methods fail. The amendment simply recognizes that no single method of service is effective in all circumstances.

The proposed language appears to strike a reasonable balance by allowing flexibility while maintaining judicial control. Alternative service is either specifically defined or requires court authorization upon a showing of good cause. This framework ensures careful, case-specific evaluation, and protects against abuse. In practice, this flexibility is likely to reduce court burden by avoiding repeated failed service attempts, serial motions, and enforcement delays.

Many of the contemplated methods already exist under Rule 4, including leaving papers at a dwelling with a person of suitable age and discretion and service by mail for corporate entities. Courts also routinely authorize alternative service under Rule 4 when justified.

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Mark Lewis
Brandi Staley-Sladek
Charles J. Kettlewell*

Of Counsel

Extending similar principles to Rule 45 promotes coherence within the rules and eliminates an outdated distinction that no longer reflects how litigation is conducted.

The provision that permits service "by other means authorized by the court for good cause" seems like a reasonable safeguard. It ensures judicial oversight, requires a factual showing, and preserves constitutional due process by mandating methods reasonably calculated to provide notice. Courts are well-equipped to apply this standard responsibly, as they do in other service contexts.

As litigation evolves as a result of increased mobility, remote work, and digital communication, service rules simply should adapt in order to remain effective. Modernizing Rule 45 (b) is necessary to preserve it.

As for the second option of tendering fees for attendance, the advantage of tendering the fee at the time of appearance is two-fold: 1) the fee is being paid to the correct person; and 2) the fee is being paid to someone who shows up. This option is also necessary for anyone who is evading service and is being served by a non-traditional electronic means.

The proposed amendment is modest, prudent, and overdue. It preserves traditional service as the default, provides courts with limited flexibility to address evasion and modern realities, and ensures subpoenas remain a viable tool for obtaining evidence.

Thank you.



Mark Kitrick
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614 769 1968
President of *The Law Firm of Kitrick, Lewis & Staley*
12/22/25

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Comment from Allman, Thomas

Posted by the **United States Courts** on Jan 6, 2026

Comment

See attached file(s)

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2026PublicComment(Jan5)Rule 45

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mk1-nkdo-ebm5

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Public Comment

To: Advisory Committee On Civil Rules

Re: Amendment Needed to Rule 45(d)(2)(B)(ii)

From: Tom Allman, *Chair Emeritus*, Sedona Conference WG 1

Date: January 5, 2026

Introduction

Fed. Rule Civ. P. 45(d)(2)(D)(ii) currently requires courts to protect persons who are neither a party nor a party's officer from "significant" expense resulting from compliance with a "documents only" subpoena. This mandatory requirement was enacted to "clarify and enlarge the protections" for those providing "involuntary assistance to the court." *Order of Transmittal of Amendments to the Federal Rules*, Supreme Court, 134 F.R.D. 525, 668 (1991). Some courts, however, find it "unlikely" that the costs of compliance are "significant" to non-parties whose financial status enables them to bear the costs of production. *In re Subpoena to Intel Corporation*, Case No. 4:17-mc-80159-KAW, 2018 WL 1035794, at *6 (N.D. Cal. 2018)(refusing to order reimbursement to a large, publicly-traded, multinational corporation). This "means test" is inappropriate and inconsistent with the intended approach to Rule 45 cost shifting. Even a nonparty with substantial assets is "performing no work that conceivably could insure to its benefit."

At the October 24, 2025 Meeting of the Civil Rules Advisory Committee, it was agreed to drop the suggestion of Professor Brian Fitzpatrick that the existing rules should be revised because they "rarely make nonparties whole anymore." Rules Suggestion 25-CV-E, March 5, 2025 (copy at Civ. Rules Adv. Comm. Agenda Book, October 24, 2025, at 285-286 of 412). However, a decision to reject use of a financial "means test" for protection from "significant" expenses requires no such herculean effort and should be considered in the context of fine-tuning Rule 45. A targeted amendment making that point would emphasize that non-parties without an interest in the outcome of the underlying litigation are entitled to full reimbursement of the "significant" expenses incurred. The degree to which a non-party has a stake in the game was and remains the single most important factor in determining whether a person is entitled to invoke the protection of Rule 45.

Background

Under the predecessor Rule 45(b), in effect from 1938 until 1991, courts had complete discretion, as an alternative to quashing a subpoena, to order the advance payment of reasonable costs to produce subpoenaed documents under the possession and control of non-parties. The Ninth Circuit emphasized that a non-party is powerless

to control the scope of litigation and discovery and "should not be forced to subsidize an unreasonable share of the costs of litigation to which [it was not] not a party. Absent some compelling justification, "even large nonparty corporations [] should not be compelled to subsidize the defense of other large corporations." *United States v. CBS*, 666 F.2d 364, 372 (9th Cir. 1982), *cert. denied*, 457 U.S. 1118 (1982). As Professor Sherman explained at the time, the rule "contemplate[s] a class-blind procedural system" such that even a nonparty with substantial assets would recover all its costs because it was "performing no work that conceivably could insure to its benefit." Sherman and Kinnard, *Federal Court Discovery in the 80s – Making the Rules* Work, 95 F.R.D. 245, 292-94 n. 215 (1982). In *Pollitt v. Mobay Chem. Corp.,* 95 F.R.D. 101 (S.D. Ohio 1982), for example, a non-party facing a significant burden of compliance costs "totaling over $300,000" was entitled to full reimbursement "even considering (through judicial notice or otherwise), the vast financial resources available" to it as a subsidiary of GM. *Id*. at 105.

Advancement of production costs was typically limited to expenses that were more than the "costs of doing business." In *Blank v. Talley Industries*, 54 F.R.D. 627 (S.D.N.Y 1972), for example, non-party Merrill Lynch was denied advance payment of its expenses in supplying readily available customer information. Then, as now, when the costs of responding to a Rule 45 subpoena are "minimal," the nonparty must "fulfill its civic responsibilities and bear the costs of compliance." *Shields v. Eleveated Energy Solutions*, Civil Action No. 3:19-CV-00390, 2020 WL 5658499, *4 (S.D. Tex. 2020).

Rule 45(d)(2)(B)(ii)

The 1991 Amendments to Rule 45 made major changes designed to relieve non-parties of expenses and undue burdens when required to participate in litigation through a subpoena. They enhanced the importance of considering the status of a non-party and made it "much easier for a nonparty to recover discovery costs." *Tutor-Saliba Corp*. v. U.S., 32 Fed. Cl. 609, 611 n. 6 (Ct. Cl. 1995)("previously, this action was merely discretionary")(reproducing former rule). There was a preoccupation" with protecting nonparties from undue burdens in carrying out the direction to produce documents or other tangible things. David D. Siegel, *Federal Subpoena Practice Under the New Rule 45*, 139 F.R.D. 197, 235 (1992). In what is now Rule 45(d)(1), an affirmative duty was imposed on requesting parties to "take reasonable steps to avoid imposing undue burdens or expense on a person subject to the subpoena" and breach of that obligation was made sanctionable. *See, e.g., Stecklein & Rapp v. Experian Information*, 113 F.4th 858, 863 (8th Cir. 2024)("overly broad requests creating an 'undue burden' will trigger an appropriate sanction"). Courts were also required to quash or modify a subpoena that "subjects a person to undue burden." Rule 45(d)(3)(A)(iv). *See, e.g., Va. Dept. Corr. v. Jordan*, 921 F.3d 180, 189 (4th Cir. 2019)(courts must give a recipient's "non-party status 'special weight'").

For our purposes, however, the principal innovation was that of current Rule 45(d)(2)(B)(ii), which famously requires that a court order compelling production over a timely objection "protect a person who is neither a party nor a party' officer from significant expense resulting from compliance." To protect a nonparty, a court may require the requesting party to tailor the subpoenas to impose a lesser burden or it may order it to reimburse the recipient for costs associated with compliance. *United States v. Tenn. Walking Horse,* 727 Fed. Appx. 119, 123 (6th Cir. 2018). District courts must determine whether the subpoena imposes expenses on a non-party and whether those expenses are significant, in which case they must be borne by the party seeking discovery. *R.J. Reynolds v. Phillip Morris*, 29 Fed. Appx. 880, 883 (3rd Cir. 2002). *See also Leonard v. Martin*, 38 F.4th 481, 490 n.8 (2022)(if the costs are "significant," a district court must shift a nonparty's costs of complying with a subpoena).

However, "despite the mandatory language of the FRCP," courts have discretion to split the costs between the nonparties and the requesting parties when the equities of the particular case demand it. *Dow Chemical v. Reinhard*, No. M8-85 (HB), 2008 WL 1968302, at *2 (S.D.N.Y. 2008). The requesting party, however, must bear at least enough of the expenses to render the remainder "non-significant." *Linder v. Calero-Portocarrero*, 251 F.3d 178, 182 (D.C. Cir. 2001). The relevant factors involved were said to be whether the non-party actually has an interest in the outcome of the case, whether it can more readily bear its cost than the requesting party, and whether the litigation is of public importance. *In re Exxon Valdez*, 142 F.R.D. 380, 383 (D.D.C. 1992)("protection from significant expense does not mean that the requesting party necessarily must bear the *entire* cost of compliance, particularly where, as here, doubt has been cast on the subpoenaed party's status as a non-party")(emphasis in original).

In *Legal Voice v. Stormans*, 738 F.3d 1178, 1185 (9th Cir. 2013), for example, the Ninth Circuit reversed a denial of reimbursement and remanded to determine which costs were significant. The district court determined that "roughly 30% of the expenses resulting from compliance is a non-significant amount that the non-party can reasonably be expected to bear." *Stormans v. Selecky*, No. C07-5374 RBL, 2015 WL 224914, *7 (W.D. Wash. 2015).

Significance

The Court of Appeals in *Linder v. Calero-Portocarrero* observed that under some circumstances, a court might "take into account the financial ability of the non-party to bear some costs" when assessing the "significance" of the expenses incurred. 251 F.3d at 182. According to *United States v. McGraw-Hill Cos*., this made "practical sense" since an "expense might be 'significant,' for instance, to a small family-run business, while being 'insignificant' to a global financial institution." 302 F.R.D. 536 (C.D. Cal. 2014). *See*

also Sedona Conference *Commentary on Rule 45 as to Non-Parties, Second Edition,* 22 Sedona Conf. J. 1, 65 (2021).

However, some courts have stretched this observation to support the conclusion that non-party protection is unavailable for non-parties able to absorb the costs. For example, the District Judge in *Cornell v. Columbus McKinnon* determined that the substantial expenses incurred by non-party FedEx were "insignificant" – and thus non-recoverable - because they were "dwarfed by FedEx's profit figures." Case No. 13-cv-02188-SI, 2015 WL 4747260, *4-*5 (N.D. Cal. 2015). In *Balfour Beatty Infrastructure v. PB & A*, the District Judge decided against reimbursement because the non-party failed to demonstrate that it could not absorb the costs. 319 F.R.D. 277, 282 (N.D. Cal. 2017). In *National Realty Investment Advisors*, the same result occurred because the non-party did not provide evidence "contradicting its ability to afford the compliance costs." Case No.: 22-14539, 2023 WL 7402282, *2 (D. N.J. 2023). In *Sandoz v. United Therapeutics*, Civil Action No. 19-10170, 2021WL 1259667, *3 (D.N.J. 2021), $45,000 was not seen as a "significant" expense to a "large" company and in *Shasta Linen Supply v. Applied Underwriters*, Nos. 2:16-ccv-00158 & 01211 WBS AC, 2018 WL 2981827, *5 (N.D. Cal. 2018), a court found that $15,000 was not "significant" to a "national company with multiple offices"). *See also Nike v. Wu*, No. 13 Civ. 8012 (CM), 2020 WL 257475, at *14 (S.D.N.Y. 2020)(collecting cases where non-parties were denied reimbursement because they had significant assets and were in "better position" to bear the costs of compliance).

"The Better View"

Neither the text of the Rule nor the Advisory Committee Notes "require the court to consider the responding party's financial means in determining whether compliance expenses are significant." *Volt Power v. Butts*, No. 7:19-CV-00149-BO, 2021 WL 4188428, *2 (E.D. N.C. 2012)("the focus is solely on whether the expense themselves are significant"). In *Volt*, $27,000 in fees and costs to comply with a subpoena were deemed to qualify as significant. In *Gamefam v. Wowwee Group,* $149,565.34 was deemed "significant" to a well-funded entity because it had devoted substantial resources in complying with the subpoena in a short time frame. Case No. 23-mc-80310-SI, 2024 WL 1181001, *9 (N.D. Cal. 2024). In *Blue Cross Blue Shield Antitrust Litigation*, $121,952.44 and $169,095.00 in expenses incurred by non-parties Aetna and Humana were "significant" even though both were "large, national corporations with the resources to bear the costs." Case No. 2:13-cv-20000-RDP, MDL No. 2406, 2018 WL 11425554, *8 (N.D. Ala. 2018).

Indeed, the Court of Appeals in *Linder* had "no trouble concluding" that the district court was "well within bounds" in treating expenses of nearly $200,000 as "significant" when incurred because it greatly exceeded the $9000 found to be "sufficiently significant to shift costs" in *Williams v. City of Dallas*, 178 F.R.D. 103, 133 (N.D. Tex. 1998). *See*

also Leonard v. Martin, 36 F.4th 481, n. 8 (5th Cir. 2022)("given the value of [non-party's] time and the number of patient files he may have to review, it seems almost certain that the cost of complying will be significant"); *Legal Voice v. Stormans*, 738 F.3d 1178, 118) (9th Cir. 2013("[w]e have no trouble concluding that $20,000 is 'significant'"). As the Tenth Circuit explained in In *Rhea v. Apache Corporation*, "amounts in the range of $9000 to $20,000 qualify as 'significant' under the rule." 833 Fed.Appx. 186, 191 n.2 (10th Cir. 2020).

As observed in *Barracuda Networks v. J2 Global*, Case No. 2:19-mc-00146-PSG (PJWx), 2020 WL 5802372, at *2 (C.D. Cal. 2020), spending more than $22,000 to produce discovery for a requesting party's lawsuit is "significant to any company," even one "which is worth billions." *See also In re Coordinated Pretrial Proceedings*, 669 F. 2d 620, 623 (10th Cir. 1982)(refusing to excuse reimbursement of non-party because the amount involved was a "mere pittance when compared with Kerr-McGee's total assets").

Recommendation

As Professor Marcus recently noted in connection with consideration of Professor Fitzpatrick's Rules Suggestion, "there is much to be said for affording [nonparties] more protection than parties, as the rule says is already true." Memorandum, October 1, 2025, Agenda Book, Rules Mtg. Oct. 24, 2025, 281-284, at 283 of 412 . "[P]arties to a lawsuit must accept its travails as a natural concomitant of modern civil litigation. Non-parties have a different set of expectations." *Cusumano v. Microsoft Corp*., 162 F.3d 708, 717 (1st Cir. 1998). Among those are that protection from "significant" expenses will not be denied because of a failure to meet a financial "means test." It is time to amend the text of Rule 45(d)(2)(B)(ii) to clarify that the "significance" of non-party expenses is to be determined without reference to the financial resources of the movant.

There is no need to replace the existing "significance" standard in Rule 45(d)(2)(B) with one which, for example, provides protection against "disproportionate" expenses. Marcus Memorandum, *Id* at 283 of 412 (protecting against "disproportionate" costs would also run afoul of the rules' protection for non-parties). Nor is it necessary to declare a blanket rejection of the "multi-factor" equitable approach of *Exxon Valdez* because it may be "inconsistent with the language of the current rule." *See In re Modern Plastics*, 890 F.3d 244, 252 n.6 (6th Cir. 2018)(noting that "the parties have not urged this court to weigh in on the issue"). *Cf In re BlueCross Blue Shield*, *supra*, 2018 WL 1142554, *7 n.12 ("courts have held that "the significance component of Rule 45(d)(2)(B) does not require analysis" of financial resources). *See also* Lawyers for Civil Justice Comment, *Fixing What's Broken in Rule 45: Moving Beyond Minor Service of Subpoena Issues to Fixing Three Critical 'Rule Problems,* October 10, 2025, 5-7 (suggesting that amendments are needed to reaffirm that "the equitable factors test did not 'survive the 1991 amendments'").

There is much to be said for limiting protection for non-parties whose interest in the outcome disqualifies them from coverage. *See, e. g., Intel Corporation Subpoena, supra*, 2018 WL 1035794 at *6 (refusing to shift costs "given Intel's financial interest in the underlying litigation *even if* costs of compliance were "significant"). The Sixth Circuit was properly reluctant to reject the more than thirty-five years of a multi-factored approach to determine how much cost to shift from the non-party. *See, e.g., Amer. Municipal; Power v. Voith Hydro*, Civil Action 2:17-cv-708, 2023 WL 3624783, at *8 (S.D. Ohio 2023)(the Sixth Circuit "neither endorsed nor rejected it"). However, it is time to reject the argument that the ability to bear the costs is relevant to the determination of the "significance" the costs of compliance under Rule 45(d)(2)(B)(ii).

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Comment from Direct Legal Support, Inc.

Posted by the **United States Courts** on Jan 8, 2026

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Comment

Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45
Submitted by: Michael Kern, CEO – Direct Legal Support, Inc.
Date: January 6, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Dear Members of the Committee,

Thank you for the opportunity to submit public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I submit this comment on behalf of Direct Legal Support, Inc., a long-standing litigation support provider, to express serious concerns regarding the economic impact on the professional process-serving industry and the broader risks these amendments pose to due process and subpoena reliability.

I. Executive Summary

The proposed amendments authorize non-personal methods of subpoena service, including U.S. Mail, commercial carriers, and other court-approved alternatives. This represents a significant departure from longstanding federal practice and is likely to:

Substantially reduce demand for traditional in-hand subpoena service,

Cause meaningful revenue loss for thousands of professional process servers—particularly independent and small businesses, and

Introduce systemic risks that weaken the reliability and enforceability of federal subpoenas.

Give Feedback

While some courts currently permit alternative service, codifying these methods removes the ambiguity that has historically preserved personal service as the gold standard and undermines an industry that has reliably served the federal judiciary for decades.

II. Economic Impact on the Process-Serving Industry

Federal subpoena service represents a stable and essential segment of work for professional process servers nationwide, particularly independents and small agencies operating in both urban and rural areas.

Conservatively, the proposed amendments will result in:

A sharp decline in demand for personal service,

Loss of revenue tied to diligence-based work such as stakeouts, skip tracing, and repeat attempts, and

Significant financial strain on small, often family-operated businesses.

Unlike large national vendors, independent servers lack the scale to absorb this structural shift. For many, federal subpoena work provides economic stability that supports their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely traditional—it is fundamental to procedural fairness. Mail-based service presents inherent risks, including:

Outdated or incorrect addresses,

Mail forwarding or delivery errors,

Shared or unsecured mailrooms, and

Delivery confirmations that verify receipt at a location, not by the intended recipient.

These deficiencies are often invisible to courts reviewing tracking data but directly affect whether a subpoenaed party receives actual notice. Reduced reliability will predictably lead to increased disputes, motions to quash, and enforcement challenges, burdening litigants and courts alike.

IV. Anticipated Spillover Into State Practice

Although limited to federal subpoenas, the practical impact of this amendment will extend far beyond federal court.

Many states model their civil rules on the FRCP and may seek to harmonize subpoena procedures.

State courts often treat federal rules as persuasive authority when evaluating alternative service.

Law firms and vendors will build mail-based workflows that naturally migrate into state practice.

Give Feedback

The foreseeable consequences include reduced reliance on personal service in state courts, increased automation, and erosion of procedural safeguards that protect litigants' rights. This "second wave" presents the most significant long-term risk to the profession.

V. Request for Reconsideration

I respectfully urge the Committee to:

Reconsider or withdraw the amendments as drafted.

Preserve personal service as the presumptive method of subpoena delivery, permitting alternatives only upon a specific court finding.

Conduct and publish a comprehensive economic impact assessment addressing effects on small businesses and rural providers.

Solicit additional input from professional associations whose members will be directly affected.

VI. Conclusion

Rule 45 is central to ensuring subpoenas are delivered reliably and consistent with due process. While modernization is important, removing personal service as the foundational standard risks both procedural fairness and the livelihoods of thousands of small business owners.

This change will shape attorney behavior, influence state rulemaking, and weaken a system that has protected litigants' rights for generations. I urge the Committee to carefully consider these economic and systemic risks and to engage further with industry stakeholders before finalizing any amendments.

Thank you for your time and consideration.

Respectfully submitted,

Michael Kern
CEO, Direct Legal Support, Inc.
(213) 927-2240

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Comment ID

USC-RULES-CV-2025-0004-0041

Tracking Number

mk3-64ua-akle

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Comment from Diamond, Maria

Posted by the **United States Courts** on Jan 8, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See attached file(s)

Attachments 1

2025.01.06 Ltr to Standing Committee re FRCP 41(a)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0042/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0042

Tracking Number
mk3-8uui-hdyv

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DIAMOND~MASSONG
Where Law and Medicine Merge

Maria S. Diamond
Attorney at Law

January 6, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: Proposed Amendments to FRCP 41(a) – Voluntary Dismissal

Dear Committee Members:

As a practicing attorney with more than 40 years of experience litigating civil cases in both federal and state courts, I respectfully submit the enclosed remarks in support of the proposed amendments to FRCP 41(a).

The proposed amendments would expressly allow the dismissal of one or more claims in a multi-claim. This change will resolve prior uncertainty in some courts that limited voluntary dismissal to entire actions or all claims against a party. Furthermore, this change will align the rule with modern multi-claim, multi-party practice and promote efficiency by reducing the need for amended complaints and motion practice under Rule 15.

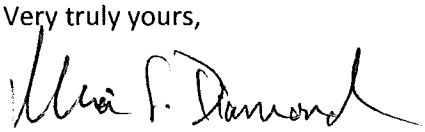
A representative example involves a birth injury medical negligence lawsuit I filed last year, in which I had to name multiple entities as defendants. This was necessitated because of a merger relationship between two of the entities, the details of which were neither publicly known nor discernible. After I filed the lawsuit, general counsel for one of the entities contacted me and divulged the relevant details of the relationship under what was privately termed a master affiliation agreement, including how two separate corporate entities continued to operate. I was then able to voluntarily dismiss one of the entities under Rule 41, a very simple and cost-effective process, without needing to amend the complaint. Similar situations are very common in my legal practice, particularly in this era of health care mergers. Multiple parties and claims must be pled at the outset due to limited access to evidence.

In addition, the proposed amendments clarify that a stipulation of dismissal must be signed only by parties who have appeared and remain in the case, not by those previously dismissed. Together, the changes to the rule will reduce unnecessary procedural hurdles, and support the laudable goals of narrowing issues and streamlining litigation. They strike the right balance tween reducing burdens while protecting fairness to all parties.

Thank you for your consideration of these comments.

Puget Sound Plaza | 1325 Fourth Avenue | Suite 1744 | Seattle, WA 98101 | Phone 206.445.1258 | Fax 206.445.1257 | diamondmassong.com

Very truly yours,



Maria S. Diamond
Attorney at Law

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Comment from Support LLC, I Serve Legal

Posted by the **United States Courts** on Jan 8, 2026

Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email create more uncertainty, not less.
The current rule works and is not the source of systemic problems. Why create more issues.
Weakening Rule 45 may will spill into state rules and reshape subpoena practice nationwide.
The proposed amendments risk more bad service, more disputes, and more unnecessary court burden.

Comment ID
USC-RULES-CV-2025-0004-0043

Tracking Number
mk3-cwd7-kt33

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Comment from Are You Being Served?, Inc. Legal Support Services

Posted by the **United States Courts** on Jan 8, 2026

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Comment

At a time when people are worried about "Sewer Service" and contesting actual service by hand, that are legitimate services, the federal government wants to make an amendment that will open up every service to be contested? What kind of sense does that make? When witnesses start "missing" depositions and hearings and clogging up the court system with delays I think that the feds will realize what a mistake they have made. I have always said "Why fix something that is not broken?".

Comment ID
USC-RULES-CV-2025-0004-0044

Tracking Number
mk3-cwe4-pv7m

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Comment from California Civil Process

Posted by the **United States Courts** on Jan 8, 2026

Comment

Removing personal service will create unnecessary delays, increase costs, and potentially deprive individuals of their right to due process. I received three letters last week that were postmarked October 2002. Mail should always be secondary, and not primary, when it comes to service of process.

Comment ID
USC-RULES-CV-2025-0004-0045

Tracking Number
mk3-dai9-sprz

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Comment from Valpro Attorney Services

Posted by the **United States Courts** on Jan 8, 2026

Comment

We oppose and support personal service only as the method of service.

Grounds to Oppose a Rule 45 Subpoena
If you are opposing a subpoena, you can challenge it based on procedural defects or substantive grounds:
Improper Service: Failure to deliver the subpoena personally, failure to tender required fees, or failure to provide prior notice to other parties can invalidate the subpoena.
Unreasonable Time: The subpoena must allow a reasonable time for compliance; courts often view fewer than 14 days as potentially unreasonable.
Geographical Limits: A subpoena for testimony or production must generally be within 100 miles of where the person resides, is employed, or regularly transacts business.
Undue Burden or Privilege: A court must quash or modify a subpoena that subjects a person to an undue burden or requires the disclosure of privileged or protected information.
How to Formally Oppose
Serve Written Objections: For document subpoenas, you must serve written objections to the issuing party's attorney within 14 days of being served (or before the compliance deadline if it's sooner).
Move to Quash or Modify: To stop a testimonial subpoena or if written objections are insufficient, you must file a formal Motion to Quash or Modify in the court for the district where compliance is required.
Protective Order: Alternatively, you may move for a protective order under Rule 26(c) to limit the scope of discovery.
Failure to respond properly or obey a valid subpoena may result in being held in contempt of court.

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Comment ID

USC-RULES-CV-2025-0004-0046

Tracking Number

mk4-75ix-38zm

Comment Details | **Submitter Info**

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Comment from Cory, Kelly

Posted by the **United States Courts** on Jan 8, 2026

Comment

Legal professionals and Officers of the Court OPPOSE the expansion of alternative service methods for subpoenas under Rule 45. It affects the integrity of lawful notice. These legal instruments impose serious obligations, on individuals who are, and others who are not, parties to a case. Personal service remains the most reliable and verifiable method of providing lawful notice. Treating mailed or electronic delivery as equivalent to personal service introduces uncertainty around identity, receipt, and awareness issues that frequently surface only after deadlines are missed and disputes arise. People can create emails anonymously so there is no way to verify an email is sent to a specific recipient. This will only create more costly and lengthy legal processes for everyone. Personal service should remain the only valid method of serving a subpoena.

Comment ID

USC-RULES-CV-2025-0004-0047

Tracking Number

mk4-ag6d-thh3

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Comment from Myels, Danielle

Posted by the **United States Courts** on Jan 8, 2026

Comment

It may sound appealing to expand alternative methods, though in reality, without the reliability of personal service, it opens the door for a surplus of issues that could intervene with court procedures. Instead of eliminating something that has proven to be more reliable, effective and efficient, we would be set back. Especially with the easy manipulation of technology.

Comment ID
USC-RULES-CV-2025-0004-0048

Tracking Number
mk4-bfzc-pd30

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Comment from Dynamic Legal Services

Posted by the **United States Courts** on Jan 8, 2026

Comment

I do not think this amendment should pass. Service of Process upon individuals should ALWAYS be face to face. Mail and email are not dependable and easily disputable.

Comment ID

USC-RULES-CV-2025-0004-0049

Tracking Number

mk4-ez5i-gdjn

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Comment from Bella Rose Legal Services

Posted by the **United States Courts** on Jan 8, 2026

Comment

We support personal service only to be accomplished by a professional Process Server. It is a secure method of service.

Comment ID
USC-RULES-CV-2025-0004-0050

Tracking Number
mk4-mg8m-nuh9

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Comment from Allegiance Legal Solutions, LLC

Posted by the **United States Courts** on Jan 8, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

I strongly oppose the proposed amendment to Federal Rule of Civil Procedure 45(b)(1) that would authorize service of subpoenas by U.S. mail or commercial-carrier delivery with “confirmation of actual receipt.”

1. The current rule works well.
Rule 45 serves its due-process function by requiring reliable, proven service that ensures a witness or third party actually received notice. Existing service provisions have functioned effectively for decades, and courts already have mechanisms to address service disputes. There is no demonstrated systemic problem in subpoena service that warrants weakening the rule.

2. Mail/Carrier service does not reliably ensure receipt.
“Confirmation of actual receipt” is ambiguous. Carrier tracking or delivery logs do not reliably show that the named person received the subpoena, particularly where mail is signed by building staff, roommates, or custodians. Without personal service by a neutral third party, courts and litigants will face increased disputes over whether service was effective, leading to more motions to quash, not fewer.

3. This change undermines enforceability.
Professional process servers provide courts with sworn affidavits of service identifying the recipient, method, date, and location - evidence that mail or carrier receipts cannot replicate. The proposed amendment will likely result in more contested service issues and more judicial time spent resolving them, harming both efficiency and justice.

4. Increased burden on non-parties and confusion for courts.
Permitting mail service as routine will lead to inconsistent standards across districts and greater uncertainty for non-party witnesses. This risks undermining the predictability that Rule 45 is intended to provide.

For these reasons, I urge the Advisory Committee to reject or substantially modify the portion of the proposed amendment that authorizes mail or commercial-carrier service of subpoenas. The Rule should

Give Feedback

retain personal service as the standard method to ensure actual receipt and avoid needless litigation disputes.

Comment ID

USC-RULES-CV-2025-0004-0051

Tracking Number

mk5-lh9v-kndl

Comment Details | **Submitter Info**

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Comment from Kirlin, Larry

Posted by the **United States Courts** on Jan 8, 2026

Comment

I've been serving process since 1991, and I've seen firsthand why personal service matters. Every few years, proposals come along that aim to make service more convenient for the initiator—but that convenience often comes at the expense of fairness for the person being served. When service is done poorly, the consequences are serious: someone who never actually received notice can fall under the court's jurisdiction and face civil or criminal penalties for failing to comply. That's not just a technicality—it's a fundamental issue of due process.

The proposed amendments to Rule 45 prioritize convenience over certainty and efficiency over fairness. In a system where subpoenas compel testimony, production, and compliance under threat of sanction, notice must be beyond doubt.

I respectfully urge the Advisory Committee to:

Reject the expansion of permissible service methods under Rule 45
Preserve personal service as the gold standard for enforceable legal notice

Due process is not an inconvenience—it is a constitutional promise. Those of us who serve process everyday work to uphold that promise, and I ask you to do the same.

Thank you for considering my perspective.

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Comment ID

USC-RULES-CV-2025-0004-0052

Tracking Number

mk5-ux54-323k

Comment Details | **Submitter Info**

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Jan 8, 2026

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Comment from Morgan, Ashley

Posted by the **United States Courts** on Jan 9, 2026

Comment

This takes away jobs for us process servers who are doing our best to support & feed our families. Mail does not equal a good serve or is at all adequate just like mail in ballots is not sufficient.

Comment ID
USC-RULES-CV-2025-0004-0053

Tracking Number
mk6-3q1r-4lrl

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Comment from Frechette, Brooke

Posted by the **United States Courts** on Jan 9, 2026

Comment

I strongly oppose the proposed amendment to Rule 45 allowing service by mail or commercial carrier. Personal service provides reliability, accountability, and enforceability that alternative methods cannot match. This change would weaken subpoena service and create uncertainty in compliance and due process. Professional service remains essential and should be preserved.It’s also important to note that thousands of process servers are small businesses in America whose livelihood is serving papers. Amendments such as this will hurt those small businesses. Please consider this.

Comment ID
USC-RULES-CV-2025-0004-0054

Tracking Number
mk6-b641-ns2i

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Comment from Delaware Attorney Services

Posted by the **United States Courts** on Jan 12, 2026

Comment

The existing service framework under Federal Rules of Civil Procedure 4, 5, and 45 is essential to the lawful exercise of personal jurisdiction and the constitutional requirement of notice “reasonably calculated” to apprise parties of proceedings, as articulated in Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950). These rules provide objective, verifiable standards that allow courts to assess service efficiently and consistently.

The proposed amendments risk diminishing evidentiary reliability by permitting methods that increase uncertainty as to receipt, authority, and compliance. Such changes are likely to generate additional jurisdictional disputes and motion practice, diverting cases from the merits and undermining Rule 1’s mandate to secure the just, speedy, and inexpensive determination of every action.

Service of process is a jurisdictional safeguard, not an administrative convenience. The current rules strike the proper balance between efficiency and due process and should be retained to preserve procedural clarity and integrity.

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Comment ID

USC-RULES-CV-2025-0004-0055

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mk7-agie-a9w1

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Comment from Jerry Jordan - Supoena Me Process Servers

Posted by the **United States Courts** on Jan 12, 2026

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Comment

The proposed changes to federal service procedures risk reducing reliability, increasing disputes and weakening due process protections. When subpoenas, contempt and sanctions are at stake, personal service by trained neutral professionals remains essential. Expanding service by mail or alternative methods prioritizes convenience over certainty and introduces risks that outweigh perceived efficiency gains, particularly when “confirmed receipt” remains undefined and invites litigation. As a former award-winning investigative reporter, I have seen unscrupulous individuals use the legal system in a manner to harass, defraud and manipulate others. Some of those cases involved process documents that were less than accurate, while others involved completely falsified documents. Personal service with verification is the best way to ensure accurate delivery of legal documents.
Professional process servers provide accountability, documentation and neutrality that mail and courier services cannot replicate, thereby protecting the integrity of the judicial system. Because federal rules often influence state procedural standards, broad expansion of service methods sets a concerning precedent. Any changes to service requirements should therefore be narrow, exceptional and subject to court supervision to preserve due process and public confidence in the courts.

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Comment ID

USC-RULES-CV-2025-0004-0056

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Comment from Anderson Attorney Services

Posted by the **United States Courts** on Jan 14, 2026

Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email create more uncertainty, not less.
The current rule works and is not the source of systemic problems.
Weakening Rule 45 will spill into state rules and reshape subpoena practice nationwide.
The proposed amendments risk more bad service, more disputes, and more court burden.

Comment ID
USC-RULES-CV-2025-0004-0057

Tracking Number
mkc-zs75-jmap

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Comment from Shisler, Jonathan

Posted by the **United States Courts** on Jan 14, 2026

Comment

Comment Opposing the Amendment to Rule 45(b)(1)

The undersigned submits this comment in opposition to the proposed amendment to Federal Rule of Civil Procedure 45(b)(1) insofar as it authorizes service of a subpoena by mail, commercial carrier, or other court-approved alternative means. A subpoena is not a routine notice document; it is a compulsory court order that carries legal consequences for noncompliance. As such, its service must meet the highest standards of reliability, certainty, and due process.

Service of a subpoena must satisfy three fundamental principles:

Identify – The person being served must be positively identified as the named individual.

Notify – The person must be made aware that a court order has been issued and that compliance is mandatory.

Deliver – The subpoena must be physically delivered in a manner that ensures it is actually received and understood by the intended recipient.

Only personal service on the named individual reliably satisfies all three principles. Substituted service, mail service, or electronically authorized methods fail to guarantee identification, fail to ensure the intended person is actually notified, and fail to confirm that the subpoena was meaningfully delivered to the correct individual.

A subpoena is fundamentally different from a summons or ordinary legal notice. A summons initiates litigation and is often directed at entities or parties already represented by counsel. A subpoena compels action by a non-party and exposes that individual to potential contempt sanctions. Historically, this distinction is why subpoenas have required stricter service standards. Lowering those standards

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undermines both due process and the integrity of judicial compulsion.

The proposal's allowance for:

"Leaving a copy at a dwelling,"

"Sending by mail or commercial carrier," and

"Any other method authorized by the court,"

creates significant risks:

Documents may be received by a third party with no obligation to notify the named person.

Mail and carrier delivery confirm only receipt at an address, not receipt by the individual.

Courts will be forced to litigate whether "actual receipt" occurred, increasing disputes rather than reducing them.

Individuals may face enforcement proceedings without ever having knowingly received a subpoena.

The Committee Note asserts that these methods are "reasonably calculated to give notice." That standard is insufficient for subpoenas. Subpoenas require more than notice; they require certainty of personal receipt. The legal consequences of noncompliance demand a higher threshold than general notice standards.

If modernization is deemed necessary, the minimum acceptable standard should mirror existing practice in many jurisdictions:
Service should be valid only if performed in the same manner authorized for personal service under the law of the state in which service is completed. This preserves federal uniformity while respecting state-level procedural safeguards that have evolved to protect due process.

At minimum, Rule 45(b)(1) should:

Retain personal service on the named individual as the primary and preferred method;

Limit alternative methods to those already authorized under the applicable state's service rules;

Reject mail, commercial carrier, and electronic service as standalone methods of original service.

The proposed amendment converts subpoenas from instruments of certain judicial compulsion into documents governed by convenience-based notice standards. That shift is incompatible with the historical and constitutional seriousness of a subpoena.

Efficiency cannot justify weakening due process. Convenience cannot replace certainty. Subpoenas carry consequences, and service must be performed in a manner that ensures those consequences rest on a foundation of unquestionable delivery and personal notice.

For these reasons, the proposed amendment to Rule 45(b)(1) should be rejected or substantially revised to preserve personal service as the required standard for valid service of a subpoena.

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Comment ID

USC-RULES-CV-2025-0004-0058

Tracking Number

mkd-1fz4-d4qs

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Comment from Uthe Investigative and Professional Services, PLLC

Posted by the **United States Courts** on Jan 15, 2026

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Comment

The reality is that service of process is a mandatory part of due process. When anyone can send a legal document by mail and purposely mail it to another address, or mail it to an old address and the person does not show up, how is that due process? When a document is served properly, due process has been applied. If this law passes, it will erode or diminsh due process for the whole case.

Comment ID
USC-RULES-CV-2025-0004-0059

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mkf-wxi6-h7u6

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Comment from Garcia, Desy

Posted by the **United States Courts** on Jan 15, 2026

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Comment

See attached file(s)

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0060/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0060

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mkf-x15e-uzdv

Comment Details | **Submitter Info**

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Desy Garcia
Date: 1/15/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Desy Garcia
Desygarcia22@gmail.com
(407) 687-6179

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PUBLIC SUBMISSION

Comment from Legal-Ease Enterprises, Inc.

Posted by the **United States Courts** on Jan 15, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0061/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0061

Tracking Number
mkf-x1pc-slvl

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Legal-Ease Enterprises, Inc.
Date: 01/15/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *Legal-Ease Enterprises and ALL Process Servers* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Joselynn Cook
Vice President of Legal-Ease Enterprises, Inc.
215-535-1532

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PUBLIC SUBMISSION

Comment from Served 123 LLC

Posted by the **United States Courts** on Jan 15, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

Served 123 LLC

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0062/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0062

Tracking Number
mkf-x5sf-oe3j

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Daniel Kovach, Owner and Operator, Served 123 LLC
Date: January 15, 2026

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Daniel Kovach, Owner and Operator, Served 123 LLC

Date: January 15, 2026

To:

Committee on Rules of Practice and Procedure

Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Served 123 LLC to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

• materially reduce the demand for traditional in-hand subpoena service,

• cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and

• introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an

industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions. Based on conservative projections, demand for traditional hand-delivery will decline, revenue tied to stakeouts, skip traces, and repeat attempts will diminish, and small businesses will face financial pressure. Unlike large vendors, independent process servers cannot easily absorb this sudden structural shift.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness. Mail-based systems present risks including outdated or incorrect addresses, mail forwarding issues, unsecured mailrooms, and carrier logs that confirm delivery to an address rather than to the intended recipient. These risks are largely invisible to courts but directly affect whether a subpoenaed party actually receives notice. A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening litigants and courts.

IV. The “Second Wave” — Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will extend to state practice. Many states model their civil rules on the FRCP, others treat federal rules as persuasive authority, and law firms will attempt to replicate efficiencies in state practice. The ripple effect is predictable: reduced demand for personal service, increased vendor automation, and erosion of procedural safeguards.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternatives only upon specific court finding.

3. Conduct a comprehensive economic impact assessment on small business owners and independent process servers.

4. Gather additional testimony from professional associations whose members will be impacted.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and with due process. While modernization is important, removing personal service as the foundational standard threatens procedural fairness and the livelihoods of thousands of small business owners.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Daniel Kovach
Owner and Operator, Served 123 LLC
P.O. Box 594
Hallandale, FL 33008

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Comment from Brown Investigative Services, LLC

Posted by the **United States Courts** on Jan 16, 2026

Comment

We respectfully oppose the proposed expansion of alternative service of process under the Federal Rules of Civil Procedure which risks weakening essential due process protections. Service of process is the mechanism that ensures defendants receive actual notice, and the current rule already gives courts ample discretion to authorize alternative methods when traditional service is truly impracticable. Lowering the threshold to allow for other methods, such as via mail through the Postal Service, digital, or any means other than by a process server, introduces serious reliability concerns and will impact due process, the Federal Court system, and the livelihood of the process serving industry as a whole.

Comment ID
USC-RULES-CV-2025-0004-0063

Tracking Number
mkf-xl3j-tyeu

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Jan 15, 2026

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Comment from Rock, Denise

Posted by the **United States Courts** on Jan 16, 2026

Comment

I oppose this change.

Comment ID
USC-RULES-CV-2025-0004-0064

Tracking Number
mkf-xmag-6348

Comment Details | **Submitter Info**

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Comment from Just Legal Solutions

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

FRCP 45 Public Comment - Formal Edition

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0065/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0065

Tracking Number
mkf-xz8q-k2e8

Comment Details | **Submitter Info**

Received Date

PUBLIC COMMENT SUBMISSION

TO: Committee on Rules of Practice and Procedure **FROM:** Joseph Iannazzi, Just Legal Solutions **DATE:** January 15, 2026 **RE: Opposition to Proposed Amendments to Federal Rule of Civil Procedure 45**

I. INTRODUCTION

I am writing on behalf of **Just Legal Solutions** to formally oppose the proposed amendments to Federal Rule of Civil Procedure 45. While intended to modernize the legal process, the authorization of non-personal service methods—such as U.S. Mail and commercial carriers—presents a severe threat to the economic stability of the process-serving industry and the procedural integrity of the federal court system.

II. ECONOMIC IMPACT ON SMALL BUSINESSES

Professional process servers are a vital link in the chain of justice. For independent servers and boutique agencies, federal subpoena work is a cornerstone of their business model.

- **Revenue Loss:** Authorizing mail-based service will lead to a sharp decline in demand for traditional in-hand delivery.
- **Business Stability:** Independent and family-operated agencies cannot easily absorb the loss of federal work, which often subsidizes the infrastructure needed for more complex investigations and rural service.
- **Industry Destabilization:** The move shifts the economic benefit away from skilled human professionals toward automated corporate mail vendors.

III. DUE PROCESS AND SYSTEMIC RISKS

Personal service is the "gold standard" because it provides certainty. Moving toward mail-based delivery introduces significant vulnerabilities:

1. **Delivery Uncertainty:** Unlike a professional server who verifies the recipient, mail systems are prone to errors involving outdated addresses, shared mailrooms, or misdelivery.
2. **Tracking vs. Proof:** A tracking number confirms a package reached a building; personal service confirms the legal notice reached the *person*.
3. **Increased Litigation:** We anticipate a rise in motions to quash and "lack of notice" disputes, which will ultimately congest court dockets and delay proceedings.

IV. THE "SECOND WAVE" THREAT TO STATE PRACTICE

The danger of this amendment extends far beyond the federal level. Because many states model their own civil rules after the FRCP, a federal shift away from personal service will trigger a "domino effect" in state courts. This "second wave" threatens to dismantle the standard of personal service nationwide, eroding the role of the process server in the justice system at every level.

V. FORMAL REQUEST FOR RECONSIDERATION

I respectfully urge the Committee to:

- **Withdraw or Reconsider** the amendments as currently drafted.
- **Preserve Personal Service** as the presumptive standard, allowing alternatives only through specific court findings.
- **Conduct an Economic Impact Study** specifically targeting the effect on small business owners and rural service providers.
- **Consult Industry Stakeholders** more deeply to understand the practical field-level consequences of these changes.

VI. CONCLUSION

The integrity of the subpoena process relies on the accountability provided by personal service. We ask the Committee to prioritize the protections of due process and the survival of the small businesses that uphold them over the perceived convenience of mail-based delivery.
Thank you for your time and consideration of this critical matter.

Respectfully submitted,

Joseph Iannazzi Owner, Just Legal Solutions Justlegalsolutions.org
Joseph@justlegalsolutions.org

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Comment from Collins, Sue

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0066/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0066

Tracking Number
mkf-y0un-o1c1

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *Susan Collins, Board member of NAPPS & UIHJ*
Date: 1-15-2026

To: Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *The National Association of Professional Process Servers* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Susan Collins
Secretary of The National Association of Professional Process Servers
suecollins@usa.net

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Comment from Weno Process LLC

Posted by the **United States Courts** on Jan 16, 2026

Comment

As a legal professional for over 20 years, I strongly feel this Amendment, as proposed, is problematic. USPS, even with tracking, is unreliable. During COVID, this was evident when law firms attempted to serve documents by mail. In my experience, this method caused considerable delays in cases, backlog and higher costs. Anyone can sign a return receipt and there is no way to prove the documents will get to the right place or the right person even if signed. Often the mail, including Subpoenas, is handled by mailroom staff. I foresee a lot of lost Subpoenas in this process. I would suggest the Amendment remove the “last known address” mailing method.

Comment ID
USC-RULES-CV-2025-0004-0067

Tracking Number
mkf-y5dl-kblc

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Received Date
Jan 15, 2026

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Comment from Young, Katherine

Posted by the **United States Courts** on Jan 16, 2026

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Comment

Public Comment Submission on Proposed Amendments to FRCP Rule 45
Submitted by: Northstar Process Servers - Denver, CO 80209
Date: 1/15/2026
Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of my organization and process servers across the country to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Katherine Young & Elizabeth Pollack
Northstar Process Servers
PO Box #9075
Denver, CO 80209
303-903-3528
northstarproserve@gmail.com

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Attachments 1

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0068/attachment_1.pdf)

Comment ID

USC-RULES-CV-2025-0004-0068

Tracking Number

mkf-yrof-akq1

Comment Details | **Submitter Info**

Received Date

Jan 15, 2026

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Northstar Process Servers
PO Box #9075
Denver, CO 80209
Date: 1/15/2026
To: Committee on Rules of Practice and Procedure Administrative Office of the United States Courts
Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of my organization and process servers across the country to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

Executive Summary The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice.

By formally endorsing these alternative methods, the revised rule is expected to:

- Materially reduce the demand for traditional in-hand subpoena service,
- Cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- Introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas. While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions. Based on conservative projections:

- Demand for traditional hand-delivery will sharply decline,
- Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and
- Small businesses—many of which are family-operated—will face significant financial pressure. Unlike large service vendors, independent process servers cannot easily absorb this

sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns - Personal service is not merely a historical convention—it is a cornerstone of procedural fairness. Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation. A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice Although the amendment targets federal subpoenas, its influence will not remain confined to federal court. Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service. • Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice. The ripple effect is predictable and dangerous:
    1. Reduced demand for personal service in state courts, even without formal rule changes.
    2. Growing vendor automation, shifting service away from skilled professionals.
    3. Erosion of the process server's role in the justice system, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.

3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.

4. Gather additional testimony from professional associations whose members will be significantly impacted. Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion - Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners. A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Katherine Young & Elizabeth Pollack
Northstar Process Servers
PO Box #9075
Denver, CO 80209
303-903-3528
northstarproserve@gmail.com

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Comment from Anonymous

Posted by the **United States Courts** on Jan 16, 2026

Comment

IN OKLAHOMA, IT IS STATE LAW THAT A PERSON CANNOT SERVE DOCUMENTS IN OKLAHOMA WITHOUT A PROCESS SERVER LICENSE. COMMERCIAL CARRIERS DO NOT HAVE PROCESS SERVER LICENSES AND THEREFORE CANNOT SERVE DOCUMENTS IN OKLAHOMA.

Comment ID
USC-RULES-CV-2025-0004-0069

Tracking Number
mkf-zbwz-m5ha

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Comment from Ranger TCS LLC

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

Coment on FRCP 45 proposal

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0070/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0070

Tracking Number
mkf-zdgh-v49q

Comment Details | **Submitter Info**

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: WILLIAM QUINLAN / RANGER TCS LLC
Date: 01/15/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments ² DXWKRUL]HQJVRQRDO PHWKRGV RI VXEVSRHQD
0DLO FRPPHUFLDO FDUULHUV HOHFWURQLF GHOLYHU\ VXEVWDQWLDOO\
GHSDUWXUH IURP ORQJVWDQGLQJ SUDFWLFH[HW KR\GVR UWKHO\
UHYLVHG UXOH LV H[SHFWHG WR

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service W K D W V D I H J X D U G V O L W L J D Q W V ¶ U L J K W V Q D W L R Q Z L G H

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WILLIAM QUINLAN
OWNER - PRIVATE INVESTIGATOR
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Comment from New York State Professional Process Servers Association

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

Public Comment Submission on Proposed Amendments to FRCP Rule 45
Submitted by Gail Kagan, January 15,2026
To: Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45
Opposition to Proposed Amendments to FRCP Rule 45
As a 25-year veteran of the process-serving industry, Past President and current Legislative Chair of the New York State Professional Process Servers Association (NYSPPSA), and a member of the National Association of Professional Process Servers (NAPPS), I strongly oppose the proposed amendments to Federal Rule of Civil Procedure 45. My perspective is informed by decades of field experience and service to state advocacy groups and federal agencies, including the U.S. Department of Justice and the U.S. Department of Labor.
The Reliability Gap The shift toward authorizing U.S. Mail and commercial carriers as primary methods of subpoena service represents a dangerous erosion of due process. In our highly mobile society, individuals frequently change residences and email providers but rarely update their mailing addresses or digital records. Mail-based systems rely on static, often obsolete data. Personal service is the only method that includes a "boots on the ground" investigation to verify that a recipient resides or works at a location. Without this physical verification, a time-sensitive subpoena may sit unread in a defunct inbox or an abandoned mailbox, fundamentally jeopardizing a litigant's rights and the court's timelines.
The "COVID Anomaly" vs. Actual Notice The success of alternate service during the pandemic was a historical anomaly due to a sedentary population. Today, "delivery confirmation" to a porch or a mailroom is not a substitute for "actual notice" to a human being. Personal service remains the only way to ensure and protect due process rights.
Systemic Risks Furthermore, these amendments threaten the economic survival of small, family-owned agencies and will trigger a "second wave" of state-level rollbacks. I respectfully urge the Committee to preserve personal service as the presumptive and mandatory standard to ensure the continued integrity and enforceability of the federal subpoena process.
Thank you for your time and for considering the perspective of a career professional in this field.

Give Feedback

PLEASE REVIEW MY MORE DETAILED ARGUMENTS ATTACHED BELOW
Sincerely,
Gail Kagan
CEO ASUBPOENA SERVICES LLC,
Former President and a Chair of the New York State Professional Process Servers Association
Member of the National Association of Professional Process Servers
30 South Broadway Suite 701
Yonkers, NY 10701

Attachments 1

Comments onProposed Amendments to the Federal Rules of Civil Procedure by Gail Kagan

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0071/attachment_1.pdf)

Comment ID

USC-RULES-CV-2025-0004-0071

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by Gail Kagan, January 15,2026

To: Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts **Re:** Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comments on the proposed amendments to Federal Rule of Civil Procedure 45. I write to you today drawing upon **25 years of professional experience in the process-serving industry**. Having spent two and a half decades ensuring the integrity of legal notice in the field, I am compelled to express significant concerns regarding the proposed shift toward non-personal service methods.

I. Executive Summary

The proposed amendments—authorizing subpoena service via U.S. Mail, commercial carrier, and other "court-approved" alternatives—threaten the foundational principles of due process. Based on my extensive experience, personal service remains the only reliable way to ensure a party has received notice of a compulsory legal obligation. By de-prioritizing in-person service, the Committee risks:

- Weakening the enforceability of federal subpoenas.
- Ignoring the realities of our highly mobile society where digital and mail addresses are frequently unreliable; and
- Devastating an industry of small business owners who provide the "boots on the ground" verification the judiciary relies upon.

II. The Superiority of Personal Service in a Mobile Society

Over my 25 years in this profession, I have witnessed how technology has made our society more transient, not less. While modernization is often equated with efficiency, it is not a substitute for the certainty of personal service.

- **The "COVID-19 Anomaly":** Proponents of mail and electronic service often cite their success during the pandemic. In my professional view, this is a flawed metric. During the pandemic, the population was largely "sheltering in place" and sedentary. Today, we are a mobile society. People change physical addresses and email providers constantly. Relying on mail today is different from relying on mail in 2020.

- **Verification vs. Speculation:** A mail carrier or an automated email server cannot perform a field investigation. As a professional with 25 years of experience, I know that "delivery confirmed" to a front porch or an inbox is not the same as "notice served" to the correct natural person or authorized agent. Personal service ensures that the right person—not a new tenant, a former roommate, obsolete or broken mailbox or a defunct email folder—receives the document.
- **Time-Sensitivity:** Subpoenas are, by their very nature, time-sensitive. Allowing alternate methods without first requiring an attempt at personal service and a field investigation allows for "dead time" where a subpoena may sit unread while a trial or deposition date approaches, fundamentally tampering with litigation timelines and due process.

III. Reliability and Due-Process Concerns

Personal service is the cornerstone of procedural fairness. Mail-based systems present risks that I see daily in the field:

- Outdated or incorrect addresses provided by outdated databases.
- Shared or unsecured mailrooms in multi-unit dwellings.
- Carrier logs that confirm a package reached a zip code, but not a human hand.

These failures are often invisible to the court until a motion to quash is filed or a witness fails to appear, creating unnecessary burdens on the judicial system that personal service would have avoided entirely.

IV. Economic Impact on Small Businesses

Federal subpoenas provide a predictable and essential category of work for independent servers and small, family-operated agencies.

- **The Loss of Expertise:** Demand for traditional hand-delivery will decline, leading to a loss of the very professionals who perform skip traces, stakeouts, and residence investigations.
- **Structural Instability:** Small businesses cannot easily absorb the loss of federal work. If these agencies close, the court loses its most reliable mechanism for reaching "hard-to-find" individuals who purposefully evade mail or electronic notice.

V. The “Second Wave” — Anticipated Spillover into State Practice

In my 25 years, I have seen state courts consistently "harmonize" their rules with the FRCP. If the federal standard for personal service is lowered, state courts will follow. This will trigger a nationwide erosion of service standards, shifting the responsibility of notice away from skilled professionals and toward automated, unreliable systems.

VI. Request for Reconsideration

Based on my decades of service to the legal community, I respectfully urge the Committee to:

1. **Preserve personal service as the presumptive and mandatory first method** of subpoena delivery.
2. Allow alternative methods **only** after showing that personal service was attempted and failed.
3. Acknowledge that personal service to a natural person or entity is the **only** way to fully protect due process rights in a post-pandemic, mobile world.

Conclusion

Personal service is not a relic of the past; it is a vital safeguard. My 25 years in the field have taught me that while technology changes, the necessity of face-to-face notice does not. I respectfully ask the Committee to protect the integrity of the federal subpoena process by maintaining the gold standard of personal service.

Thank you for your time and for considering the perspective of a career professional in this field.

Sincerely,

Gail Kagan

CEO ASUBPOENA SERVICES LLC,

Former President and a Chair of the New York State Professional Process Servers Association

Member of the National Association of Professional Process Servers

30 south Broadway 701

Yonkers, NY 10701

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PUBLIC SUBMISSION

Comment from Sanders , Brad

Posted by the **United States Courts** on Jan 16, 2026

Comment

Public Comment Submission on Proposed Amendments to Federal Rule of Civil Procedure 45
Submitted by: Brad Sanders
ProServer California
Bakersfield, California
Member, National Association of Professional Process Servers (NAPPS)
Member, California Association of Legal Support Professionals (CALSPro)
Date: January 15, 2026
To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Re: Strong Opposition to Proposed Amendments to Federal Rule of Civil Procedure 45
Dear Members of the Committee,
I am Brad Sanders, owner of ProServer California, a professional process serving business based in Bakersfield, California. As a long-standing member of the National Association of Professional Process Servers (NAPPS) and the California Association of Legal Support Professionals (CALSPro), with over two decades of experience delivering federal subpoenas nationwide, I submit this comment in strong opposition to the proposed amendments to FRCP Rule 45 that would authorize non-personal service via U.S. Mail, commercial carriers, or other alternatives as a standard method.
These amendments represent a radical and unnecessary departure from the proven reliability of personal service—a cornerstone of American due process for generations. They threaten to devastate an entire profession of dedicated small-business owners while introducing grave risks to the fairness and enforceability of federal subpoenas.
Devastating Economic Impact on Small Businesses
Federal subpoena work is a lifeline for thousands of independent process servers and small agencies like my own ProServer California, especially in rural and mid-sized communities where large corporate vendors rarely operate. Personal service demands skill, persistence, and local knowledge—stakeouts, skip traces, multiple attempts—that generate stable revenue and support families.

Give Feedback

The proposed changes will trigger an immediate and irreversible collapse in demand for these services. Conservative estimates show revenue losses of 50–80% for federal work alone. Unlike massive national vendors who can pivot to automation, independent servers—many sole proprietors or family operations—will face closure. This is not mere inconvenience; it is the destruction of livelihoods built on decades of reliable service to the federal courts.

Fundamental Threats to Due Process and Judicial Reliability

Personal service is not tradition for tradition's sake—it is the gold standard that guarantees actual notice. Courts have long recognized that nothing matches the certainty of handing documents directly to the recipient.

Mail and carrier methods, by contrast, are riddled with documented failures: outdated addresses, forwarding delays, unsecured mailrooms, packages left with strangers, and tracking data that proves only delivery to a location, not receipt by the intended party. These invisible flaws invite disputes, motions to quash, claims of improper notice, and outright noncompliance—burdening litigants, clogging dockets, and eroding public confidence in the justice system.

The amendments gamble with constitutional due process for the sake of marginal convenience. History shows that when notice fails, justice fails.

Inevitable and Dangerous Spillover to State Courts

This federal change will not stay federal. Roughly 35 states closely track the FRCP and are poised to adopt parallel rules for "harmony." In others, attorneys will cite the new Rule 45 as persuasive authority to push mail service in state cases. Large firms and vendors will standardize cheap, automated workflows across all jurisdictions.

The result: a nationwide erosion of personal service, displacement of skilled professionals by algorithms, and weakened procedural safeguards that have protected litigants' rights for decades. The Committee's decision will reshape civil practice far beyond federal courtrooms.

Urgent Requests

For the sake of due process, judicial efficiency, and the small businesses that have faithfully served the courts, I implore the Committee to:

1. Withdraw the proposed amendments entirely or revise them to preserve personal service as the presumptive and preferred method;
2. Permit alternatives only upon a specific, documented court finding of necessity;
3. Commission and publish a thorough economic impact study examining effects on independent servers, sole proprietors, and rural communities;
4. Hold additional hearings with testimony from frontline process servers and professional associations directly affected.

The current system works because it prioritizes certainty over convenience. Weakening it risks irreversible harm to both the profession that delivers justice and the constitutional principles that define it.

Thank you for your serious consideration of these critical concerns.

Sincerely,

Brad Sanders
Owner, ProServer California
Bakersfield, California
Member, NAPPS and CALSPro

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0072

Tracking Number

mkf-zpq9-7oft

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Comment from BBPS LLC

Posted by the **United States Courts** on Jan 16, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45 (1)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0073/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0073

Tracking Number
mkf-zst5-sa8f

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Bryan Blair
Date: 1-15-2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Bryan Blair
BBPS LLC
623-300-8468

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Comment from BERTO LEGAL SERVICES, INC.

Posted by the **United States Courts** on Jan 16, 2026

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Comment

If this measure passes it will have catastrophic consequences on the economic impact on thousands of Process Service Small Businesses.
Not to mention the unnecessary litigation that such a cavalier rule will create in the way of "Insufficient Service Petitions."
Terminate this ridiculousness and stick to the basics.

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45- SIGNED

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0074/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0074

Tracking Number
mkg-0g6d-2m1d

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Name / Organization]*
Date: *[Insert Date]*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
LE H. WU
C.E.O., Berto Legal Services, Inc.
support@bertolegal.com/(800) 440-5738, Ext 800

An official website of the United States Government.

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Comment from PaperWorks Express

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

PWE Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0075/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0075

Tracking Number
mkg-12zo-vnyi

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Havala England/ PaperWorks Express
Date: 01/15/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of PaperWorks Express to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
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The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rule-making, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Havala England
PaperWorks Express

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Comment from Capital Court Services

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Please see the attached letter. Thank you!

Attachments 1

FRCP Rule 45 comments

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0076/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0076

Tracking Number
mkg-2vtx-4x7o

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Ernest D. Moody, III, Capital Court Services, Tallahassee, FL
Date: 1/15/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Capital Court Services, a licensed investigative agency in Tallahassee, FL. I need to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
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While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

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NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

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Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

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- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
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This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
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A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Ernest Don Moody, III
Licensed Private Investigator
FL License No. C 3200429 | A 3300016

Capital Court Services
Phone: 850-273-8508
221 W. Park Avenue #1682, Tallahassee, FL 32302
Web: www.capitalcourtservices.com
Email: ernest@capitalcourtservices.com

Member of:
Florida Association of Licensed Investigators (FALI)
Florida Association of Professional Process Servers (FAPPS)
National Association of Professional Process Servers (NAPPS)
National Council of Investigation and Security Services (NCISS)

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Comment from FastAct Civil Process, LLC

Posted by the **United States Courts** on Jan 16, 2026

Comment

Attached PDF

Attachments 1

Doc 1

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0077/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0077

Tracking Number
mkg-5556-mjxt

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Adam Kraft
Organization: FastAct Civil Process, LLC
Date: January 15, 2026

To: Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of FastAct Civil Process, LLC to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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diminish, and
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Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness. Mail-based systems present well-documented risks:

• outdated or incorrect addresses,
• mail forwarding issues,
• shared or unsecured mailrooms, and
• carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

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This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.
2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.
3. Conduct a comprehensive economic impact assessment evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. Gather additional testimony from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Adam Kraft
FastAct Civil Process, LLC

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Comment from Schuster, Rebecca

Posted by the **United States Courts** on Jan 16, 2026

Comment

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of myself, a certified process server in Texas. The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to materially reduce the demand for traditional in-hand subpoena service, cause significant revenue loss for thousands of professional process servers, particularly independent servers such as myself, and introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades. Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. Federal subpoena work provides economic stability that sustains my broader operation. Mail-based systems present well-documented risks such as outdated or incorrect addresses, mail forwarding issues, shared or unsecured mailrooms, and carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient. These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation. A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts. Although the amendment targets federal subpoenas, I am concerned its influence will not remain confined to federal court.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0078

Tracking Number

mkg-9nhg-d1o4

Comment Details | **Submitter Info**

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Jan 15, 2026



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Comment from Fisher, Kate

Posted by the **United States Courts** on Jan 16, 2026

Comment

No to amend Rule 45.

Kathryn Fisher

Comment ID
USC-RULES-CV-2025-0004-0079

Tracking Number
mkg-ix5x-8zer

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Jan 16, 2026

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Comment from Venture Investigations & Process Services Inc.

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0080/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0080

Tracking Number
mkg-uybe-fxr5

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Comment from Crowley, Anthony

Posted by the **United States Courts** on Jan 16, 2026

Comment

I feel this is a very bad idea people will really say they never recieved service and could be very damaging to our legal system.

Comment ID
USC-RULES-CV-2025-0004-0081

Tracking Number
mkh-2o4e-6n14

Comment Details | **Submitter Info**

Received Date
Jan 16, 2026

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Comment from Ammann, Victoria

Posted by the **United States Courts** on Jan 16, 2026

Comment

Rule 45 - SuggestionTo the Advisory Committee on Civil Rules:

I submit this comment on the proposed amendments to Federal Rule of Civil Procedure 45 based on my professional experience as a certified paralegal and owner of a process-serving business that regularly handles subpoenas for testimony and document production involving non-parties.

Rule 45(b)(1) — Service

I support clarification of permissible service methods, including residential service and service by mail or commercial carrier with confirmation of receipt. These methods reflect modern practice and reduce disputes over technical defects that do not affect notice or fairness.

Rule 45(b)(1) — Witness Fees and Costs

I do not support eliminating payment expectations tied to subpoenas.

Non-parties should not be required to absorb the costs of compliance, particularly in document-heavy matters. Additionally, even travel within the existing mileage limits—such as 100 miles—can be burdensome for low-income or financially vulnerable individuals.

Rather than eliminating payment expectations, the rule should clarify that a subpoena recipient may request payment of reasonable compliance costs prior to production or appearance, subject to existing Rule 45(d)(2)(B) protections and court oversight.

Rule 45(d)(1) and (d)(2)(B) — Undue Burden and Cost Shifting

The proposed amendments should reinforce Rule 45’s longstanding principle that subpoenas must avoid

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imposing undue burden or expense on non-parties.

Businesses responding to large document requests may need to retain outside personnel to locate, review, and scan records over extended periods, resulting in significant compliance costs. Clarifying payment timing within the existing Rule 45(d) framework would reduce disputes while preserving judicial control.

Rule 45(d)(2) — Document Production

Electronic production of documents should be expressly encouraged as a reasonable and often preferred method of compliance.

Subpoenas should not require personal appearance solely to explain non-production. Written responses or certifications under penalty of law can often achieve the same purpose more efficiently.

Rule 45(c) — Geographic Limits and Out-of-State Witnesses

Clarifying subpoena power for remote testimony is helpful, but expanded authority should be balanced against the burden imposed on distant non-party witnesses.

Judicial confirmation of necessity, encouragement of remote testimony, or reasonable travel accommodations provide appropriate safeguards without imposing excessive procedural barriers.

Conclusion

The proposed amendments move Rule 45 in a constructive direction. Preserving payment protections for non-parties, clarifying service methods, and encouraging electronic and remote alternatives would improve efficiency while remaining consistent with the structure and purpose of Rule 45.

Respectfully submitted,

Victoria R. Ammann, OSBA Certified Paralegal
Owner, Ammann Process Servers, LLC

Comment ID
USC-RULES-CV-2025-0004-0082

Tracking Number
mkh-433t-npxj

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Comment Details | **Submitter Info**

Received Date
Jan 16, 2026

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Comment from All New York Process Servers Inc.

Posted by the **United States Courts** on Jan 16, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

I do not support proposed changes to FRCP 45

Attachments 1

20260116114203

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0083/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0083

Tracking Number
mkh-48oo-oof6

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Jennifer Gorankoff Katz/All New York Process Servers Inc.
Date: January 16, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of All New York Process Servers Inc. to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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Based on decades of procedural evolution:

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- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

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2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,



Jennifer Gorankoff Katz
President
1 South
Washington
Street, Suite 420
Rochester, NY
14614
585-423-9347
(Office)

An official website of the United States Government.

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Comment from Anonymous

Posted by the **United States Courts** on Jan 16, 2026

Comment

This can and will jeopardize the way our court system works as it is already too complicated. We have not changed the system. I'm not sure why we would change it now since it is working well for us. Please do not approve this.

Comment ID
USC-RULES-CV-2025-0004-0084

Tracking Number
mkh-59w6-v8m5

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Comment Details | **Submitter Info**

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Comment from Department of Child Support

Posted by the **United States Courts** on Jan 16, 2026

Comment

This will hurt the industry and more importantly it will be difficult to prove whether the party is served. If they send the subpoena through the mail how will they know it was received by the actual person being served. They may not live there anymore or they may live there but they never check their mail or they can say they never got it. Process Servers are needed for so they can properly verify and have proof the person was served.

Comment ID
USC-RULES-CV-2025-0004-0085

Tracking Number
mkh-5hyr-x814

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Comment from Nelson-Christie, Kalima

Posted by the **United States Courts** on Jan 16, 2026

Comment

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DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0086

Tracking Number
mkh-5l5f-rgzf

Comment Details | Submitter Info

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Kalima Nelson-Christie /All New York Process Servers Inc.
Date: January 16, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of All New York Process Servers Inc. to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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- shared or unsecured mailrooms, and
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These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

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Based on decades of procedural evolution:

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- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
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V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

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I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Jennifer Gorankoff Katz

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Comment from Miller, Katelyn

Posted by the **United States Courts** on Jan 16, 2026

Comment

I submit this comment not only as a certified professional process server in Palm Beach County, Florida, but also as a legal secretary who works closely with judicial assistants and judges' offices on a daily basis. My dual role provides direct, practical insight into how rule changes affect both service of process and the already overburdened court system.

While I appreciate the Committee's efforts to modernize and clarify the Federal Rules, I am concerned that amendments to Rule 45—if not carefully drafted—may unintentionally increase litigation over service issues and compliance disputes. In real-world practice, these disputes frequently result in additional motions, hearings, and judicial involvement.

From my experience inside the courts, judicial assistants and judges' offices are already overwhelmed. It has become extremely difficult to schedule hearings in civil matters. Hearings that, under normal circumstances, should be set within days or the following week are now being scheduled nearly three months out due to the volume of cases and motion practice requiring court attention.

When service rules are unclear or invite technical challenges, the result is not merely inconvenience—it directly contributes to court congestion. Motions to quash, motions to compel, and repeated hearings stemming from service disputes place additional strain on judicial resources that are already stretched thin.

As a process server, I also see firsthand how uncertainty in service requirements increases costs, delays compliance, and places process servers in difficult positions—particularly when attempting lawful, in-person service in complex or sensitive situations.

I respectfully urge the Committee to:

Explicitly preserve personal service by authorized process servers as a clear and valid method of subpoena service;

Give Feedback

Avoid language that could increase technical challenges to service, which in turn generate unnecessary hearings and motion practice;

Consider the downstream impact on court scheduling and judicial workload, particularly in high-volume jurisdictions; and

Ensure that any amendments promote efficiency and clarity, rather than increasing disputes that further burden the courts.

Clear and practical service rules benefit not only litigants and witnesses, but also the courts themselves. From both the field and the courtroom, I can attest that procedural clarity is essential to keeping cases moving and reducing unnecessary judicial involvement.

Thank you for the opportunity to submit this comment.

Respectfully submitted,

Katelyn Miller
Palm Beach County Certified Process Server #1991
Legal Secretary
Serving Process Since 2005

Comment ID

USC-RULES-CV-2025-0004-0087

Tracking Number

mkh-5lsg-jvsj

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Comment from Amini, Denise

Posted by the **United States Courts** on Jan 16, 2026

Comment

The fundamental reason for serving process through a sheriff or a licensed and certified process server is to ensure that the individual being deposed is properly informed of the legal action. This method also establishes the court's jurisdiction over that person or entity, which is crucial if they fail to comply with the subpoena. Relying on electronic service undermines this critical function and should be deemed an inadequate form of service.

Comment ID
USC-RULES-CV-2025-0004-0088

Tracking Number
mkh-5s29-gux8

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Comment from Anonymous

Posted by the **United States Courts** on Jan 16, 2026

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Comment ID
USC-RULES-CV-2025-0004-0089

Tracking Number
mkh-5tsh-lpxb

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

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A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

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V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
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I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Rondout Legal Services, Inc.

Posted by the **United States Courts** on Jan 16, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

As a process server of almost forty years, I'm all for this change. Suitable age service makes sense in order to efficiently and in a timely manner serve a Subpoena that is needed to further a federal case. Trying to serve people in hand when they don't want to testify can be a major challenge.

Comment ID
USC-RULES-CV-2025-0004-0090

Tracking Number
mkh-5un6-22ae

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Comment from Anonymous

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Comment ID
USC-RULES-CV-2025-0004-0091

Tracking Number
mkh-5vvb-3rtx

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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V. Request for Reconsideration

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Sincerely,

REBECCA LUNA

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Comment from Mateo, Jr., Richard

Posted by the **United States Courts** on Jan 16, 2026

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Comment ID
USC-RULES-CV-2025-0004-0092

Tracking Number
mkh-62an-plfd

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from golub, joel

Posted by the **United States Courts** on Jan 16, 2026

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Comment

Mail service alone should not be an option when serving process!! Especially if requiring proof that receipt of documents were made. Most forms of mail such as certified, registered or any delivery requiring a signature get returned more often than received or simply ignored by the recipient! This will only prolong the litigation. Service of process by a professional process server at the residence or place of employment with an additional regular mailing to service location is the fastest method to bring the litigation forward. Therefor the mailing only portion of this bill should be DELETED IMMEDIATLY!

Comment ID
USC-RULES-CV-2025-0004-0093

Tracking Number
mkh-6agv-zytc

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Comment Details | **Submitter Info**

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Comment from Anonymous

Posted by the **United States Courts** on Jan 16, 2026

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Comment

Personal service is the only method that confirms actual receipt. Mail and email create more uncertainty, not less.
The current rule works. The proposed amendments risk increased bad service, disputes, and more court assignments.

Comment ID
USC-RULES-CV-2025-0004-0094

Tracking Number
mkh-6g88-mn7b

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Comment from Dirksmeier, Abigail

Posted by the **United States Courts** on Jan 16, 2026

Comment

I respectfully ask that the committee consider the ramifications of eliminating the need for in-hand service. This would decimate an industry many rely on for verification and trustworthy legal service, and one which many rely on to feed their families. In this economy, we should hesitate to push for any legislation or rules which would make it harder for working class Americans to make ends meet. It also opens the door for those less honest actors to either "forget" to send service or claim they never received it, clogging the courts with motions that could have been more expeditiously dealt with. I again ask that the committee choose what is best for the legitimacy and credibility of the legal practice, as well as what is right for those who rely on this occupation for their livelihoods. Thank you.

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID

USC-RULES-CV-2025-0004-0095

Tracking Number

mkh-71fr-fqji

Comment Details | **Submitter Info**

Received Date

Jan 16, 2026



Your Voice in Federal Decision Making

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Abigail Dirksmeier/All New York Process Servers Inc.
Date: January 16, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of All New York Process Servers Inc. to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Abigail Dirksmeier

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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Jan 16, 2026

Comment

We are professional process server with firsthand experience serving subpoenas and other legal court documents. Legal documents such as subpoenas carry serious legal consequences, including potential contempt and sanctions, and therefore require service methods that prioritize certainty, accountability, and verifiable notice. Personal service by trained professionals ensures that recipients receive lawful notice and understand the gravity of the court's command, which is essential to protecting due process.

The proposed expansion of service by mail or commercial carrier based on "confirmation of receipt" raises significant concerns. The term is undefined and invites disputes over who accepted delivery, whether the intended recipient had actual notice, and whether the legal significance of the document was understood. These uncertainties do not improve efficiency; they increase litigation and undermine confidence in the service process. Professional process servers provide sworn proof of service and act as neutral, accountable witnesses—protections that mail and courier services cannot offer.

Finally, federal procedural rules often serve as models for state-level rulemaking. Normalizing non-personal service for subpoenas risks setting a precedent that could weaken personal service standards more broadly. Any expansion of alternative service methods should be narrow, exceptional, and subject to meaningful court oversight. Convenience should not outweigh due process when court-ordered compliance and sanctions are at stake. Professional process servers exist to protect the integrity of the judicial system, and Rule 45 should continue to reflect that role.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0096

Tracking Number

mkh-75gn-4zrp

Comment Details | **Submitter Info**

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PUBLIC SUBMISSION

Comment from King, Jack

Posted by the **United States Courts** on Jan 16, 2026

Comment

As a process server I have experience serving subpoenas and other court papers. Legal documents such as subpoenas carry serious consequences, including contempt along with sanctions. Service of process needs to be performed as in hand service methods to minimize potential fraud and mis-notification. Accountability is verified by human in-person service of process, where mailings can cause delays, mis-notification and lost notifications. Personal service by trained professionals ensures that recipients receive lawful notice and understand the gravity of the court's command, which is essential to protecting due process.

The proposed expansion of service by mail or commercial carrier based on "confirmation of receipt" raises significant concerns. The term is undefined and invites disputes over who accepted delivery, whether the intended recipient had actual notice, and whether the legal significance of the document was understood. These uncertainties do not improve efficiency; they increase litigation and undermine confidence in the service process. Professional process servers provide sworn proof of service and act as neutral, accountable witnesses—protections that mail and courier services cannot offer.

Finally, federal procedural rules often serve as models for state-level rulemaking. Normalizing non-personal service for subpoenas risks setting a precedent that could weaken personal service standards more broadly. Any expansion of alternative service methods should be narrow, exceptional, and subject to meaningful court oversight. Convenience should not outweigh due process when court-ordered compliance and sanctions are at stake. Professional process servers exist to protect the integrity of the judicial system, and Rule 45 should continue to reflect that role.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0097

Tracking Number

mkh-7cxy-e34j

Comment Details | **Submitter Info**

Received Date

Jan 16, 2026

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Comment from Katz, Collin

Posted by the **United States Courts** on Jan 16, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See attached file(s)

Attachments 1

comment rule 45 cdk

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Comment ID
USC-RULES-CV-2025-0004-0098

Tracking Number
mkh-8ub6-uvue

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Collin Drew Katz - Broward SPS 1691
Date: 01-16-2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

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V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
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Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Legal Services Solutions LLC

Collin Drew Katz, Managing Member

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Comment from Legal Services Solutions LLC

Posted by the **United States Courts** on Jan 16, 2026

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Attachments 1

comment rule 45 cdk

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Comment ID
USC-RULES-CV-2025-0004-0099

Tracking Number
mkh-8vif-to2y

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Collin Drew Katz - Broward SPS 1691
Date: 01-16-2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

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I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Legal Services Solutions LLC

Collin Drew Katz, Managing Member

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PUBLIC SUBMISSION

Comment from Alliance Process Serving LLC

Posted by the **United States Courts** on Jan 16, 2026

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Comment

I do not support the proposed amendments to the Federal Rules of Civil Procedure involving the service of process. See attached

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0100

Tracking Number
mkh-9p4i-6ih5

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Christopher Swan / Alliance Process Serving LLC
Date: *January 16, 2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

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I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Christopher Swan
Owner/Alliance Process Serving LLC
212 W Ironwood Dr. STE D # 146
Coeur d'Alene, ID. 83814
208-416-9856

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Comment from Federal Magistrate Judges' Association

Posted by the **United States Courts** on Jan 16, 2026

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Comment

The Federal Magistrate Judges Association submits the attached comments

Attachments 1

FMJA Comments Final

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Comment ID
USC-RULES-CV-2025-0004-0101

Tracking Number
mkh-axth-qi7g

Comment Details | **Submitter Info**

FEDERAL MAGISTRATE JUDGES ASSOCIATION

COMMENTS ON THE PROPOSED AMENDMENTS
TO THE FEDERAL RULES OF EVIDENCE, CIVIL PROCEDURE, AND CRIMINAL PROCEDURE
SET FORTH IN THE PRELIMINARY DRAFT DATED AUGUST 2025

The Administrative Office of the United States Courts published an invitation for comment on proposed rule changes to be effective in December 2026. The proposals include changes to Federal Rules of Civil Procedure 7.1, 26, 41, 45, and 81; Federal Rule of Criminal Procedure 17; and Federal Rule of Evidence 609. The proposals also include a new Federal Rule of Evidence 707.

The proposed rule changes are of interest to the Federal Magistrate Judges Association ("FMJA") because they address issues that come up in matters before Magistrate Judges. The FMJA is a voluntary association comprised of active, full-time, part-time, recalled, and retired Federal Magistrate Judges. These comments were prepared by the FMJA Rules Committee, which consists of 26 active Magistrate Judges from districts of all sizes across the country. The comments were approved by the FMJA Board of Directors. Accordingly, the FMJA Rules Committee has considered these proposed rule changes and, with the full support of the FMJA board, provides the following comments for consideration.

A. PROPOSED CHANGES TO THE FEDERAL RULES OF CIVIL PROCEDURE

1. FRCP 7.1

Rule 7.1 requires that parties make certain disclosures to the court to assist it in determining whether a conflict of interest might exist that requires disqualification or recusal of an assigned judge under Canon 3C(1)(c) of the Code of Conduct for United States Judges. The

Rule is calculated to reach a majority of circumstances that are likely to call for disqualification based on a judge having a financial interest in a matter.

In response to concerns that the current Rule does not adequately alert judges to possible grounds for recusal, the proposed amendment clarifies and expands the types of organizations that must make disclosures.

Rule 7.1(a)(1) currently requires a "nongovernmental corporate party or nongovernmental corporation that seeks to intervene" to file a "statement that identifies any parent corporation or any publicly held corporation owning 10% or more of its stock" or, alternatively, "to state that there is no such parent or owner." Fed. R. Civ. P. 7(1)(1)(A-B). These statements must be filed with a party's first appearance and upon any corporate changes impacting the information. Fed. R. Civ. P. 7.1(b).

The first proposed change is to substitute the term "business organization" for the word "corporation" in recognition that business entities may have non-corporate forms. The other is to require disclosure of any business organization that directly or indirectly owns 10% or more of the party.

The FMJA fully supports these changes to Rule 7.1 because they will assist judges in making recusal decisions and help to flag potential conflicts of interest at the outset of a case.

2. <u>FRCP 45 and 26</u>

The Advisory Committee proposes changes to Rule 45 and a corresponding change to Rule 26. There are two proposed changes to Rule 45. The first change is that Rule 45(b)(1) be amended to clarify how subpoenas must be served and to allow for alternative methods of

service upon application to the court and a showing of good cause. The proposal also would allow for witness fees to be tendered either at the time of service or within a 14-day notice period when it requires attendance at a trial, hearing, or deposition.

The second change is that Rule 45(c) be amended to allow a subpoena to compel remote testimony so long as the testimony is within 100 miles of a witness's residence, even if it is more than 100 miles from the issuing district. This change also necessitates the proposed change to Rule 26(a)(3)(A)(i), which would require a party to specify in its pretrial disclosures whether any of the witnesses the party expects to present will provide remote testimony.

a. Rule 45(b)(1)

Magistrate Judges frequently handle subpoena disputes, including issues about service of subpoenas. The proposed changes clarify ambiguity in the current Rule around service and align service of subpoenas with methods of serving complaints under Rule 4(e)(2)(A-B) and methods of service that courts have long found to be reasonable, including service by mail or commercial carrier if there is confirmation of receipt. In particular, the amended Rule would permit personal service to a named person, service by leaving a copy of the subpoena "at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;" by "sending a copy to the person's last known address by a method of United States mail or commercial-carrier delivery, if the selected method provides confirmation of actual receipt;" or by "using another means that is authorized by the court for good cause and is reasonably calculated to give notice."

The FMJA supports the proposed changes to Rule 45(b)(1) because it is often difficult and costly to serve someone personally, and because the alternative methods of service will minimize the costs of service and delays associated with failed service, while verifying that the subpoena was delivered. The FMJA also supports the change insofar as it gives courts discretion to allow for other methods of service for good cause, something courts already are empowered to do with complaints. These changes also will reduce motion practice concerning methods of service.

The proposed changes to Rule 45(b) also include a requirement that subpoenas be served at least 14 days before a person is required to attend a trial, hearing or deposition, which the FMJA also supports because this provides a minimum baseline for what is reasonable notice and allows a party sufficient time to object in advance of a deadline for attendance. While 21 days' notice would in some ways be preferable to 14 days because a subpoenaed party may not be able to retain counsel and object within 14 days, we recognize that a longer period may not be practical given other deadlines in a litigation and the timing of when a party learns of the need to subpoena a witness. Nevertheless, we suggest that the Advisory Committee Notes emphasize that practitioners should attempt to give more than 14 days' notice when possible.

The last proposed change to Rule 45(b) is that the party serving the subpoena will be permitted to tender the fee and the mileage allowed by law either at the time of service or "at the time and place the person is commanded to appear." The FMJA appreciates the desire for flexibility in the tendering of the fee and costs, but believes that the proposed amendment does not take into account the needs of pro se and low-income individuals who may need the

modest fee and costs in order to travel to the place of the deposition. Individual Magistrate Judges who often handle motions to compel compliance with subpoenas and pro se matters are aware of situations when individuals could not afford travel. Accordingly, we suggest the Advisory Panel consider requiring tendering of the fee and costs at least 3 business days before the attendance is required unless the individual who is subpoenaed consents to tendering of the fee and costs on the date of the appearance.

b. Rule 45(c)

The proposed change to Rule 45(c) specifies that for remote testimony, the place of attendance is "the location where the person is commanded to appear in person." This change is proposed to extend the issuing court's power to compel attendance, clarifying that the court's subpoena power is nationwide so long as the witness is not required to travel farther than 100 miles. For purposes of Rule 43 and Rule 77(b), remote testimony is deemed to occur in the court where the trial or hearing is conducted.

Subsequent to the 1991 amendments to the Federal Rules of Civil Procedure that substantially modified the procedures for issuance of Rule 45 subpoenas, conflicts developed regarding "the place of compliance" and the proper venue for resolving subpoena-related disputes. The 2013 amendments consolidated the rules regarding "the place of compliance" and made clear that a party seeking relief from a subpoena must file a motion in the court for the district where compliance is required. *See, e.g.,* Fed. R. Civ. P. 45(c), (d)(1), (d)(3). Recognizing that resolution of subpoena-related disputes by the issuing court may be warranted, the 2013 amendments also added new subsection (f), which authorizes the court

where compliance is required to transfer a Rule 45 motion to the issuing court if either the person subject to the subpoena consents or the court finds exceptional circumstances. Fed. R. Civ. P. 45(f).

As explained in the 2013 Advisory Committee Notes:

> To protect local nonparties, local resolution of disputes about subpoenas is assured by the limitations of Rule 45(c) [requiring that the place of compliance be tethered to the location of the subpoenaed nonparty] and the requirements in Rules 45(d) and (e) that motions be made in the court in which compliance is required under Rule 45(c). . . .
>
> . . . The prime concern should be avoiding burdens on local nonparties subject to subpoenas, and it should not be assumed that the issuing court is in a superior position to resolve subpoena-related motions. In some circumstances, however, transfer may be warranted in order to avoid disrupting the issuing court's management of the underlying litigation, as when that court has already ruled on issues presented by the motion or the same issues are likely to arise in discovery in many districts. Transfer is appropriate only if such interests outweigh the interests of the nonparty served with the subpoena in obtaining local resolution of the motion.

Fed. R. Civ. P. 45(f), Advisory Committee Notes (2013).

The FMJA endorses the Advisory Committee's proposed amendment to Rule 45(c)(2) to ensure the authority to issue a subpoena to compel remote court testimony when appropriate under Rule 43(a) and agrees that the location where the person is commanded to appear, rather than the issuing district, should be considered the "place of attendance." That is, "place of attendance" is the "place of compliance" under Rule 45(d)(3).

While the FMJA endorses the change, the Advisory Committee may wish to consider additional amendments to Rule 45(d)(1) and (d)(3), which concern the place of enforcement of subpoenas. The current Rule requires a party issuing a subpoena or the party objecting to a subpoena to seek relief from the court for the district where compliance is required. While the

2013 amendments favored local resolution of subpoena disputes over the interests of the issuing court, the issuing court's interest in managing its docket and controlling the progress of trial alters that balance when the subpoena at issue involves trial testimony and in cases where the witness is providing remote testimony, diminishing the need for the court in the witness's place of residence, if different from the issuing court, to become involved. Additionally, expansion of Rule 45(f)'s provision allowing an attorney authorized to practice in the district of compliance to file papers and appear as an officer of the issuing court when seeking relief from a subpoena would enable the issuing court to resolve trial subpoena disputes while continuing to protect the non-party from the burden and expense of obtaining representation in a foreign district. All this being said, to protect local non-party witnesses subpoenaed for trial, it may be prudent to consider adding language to the rule or the advisory committee notes that encourage issuing courts to make reasonable accommodations to non-party witnesses (especially those who are pro se) who are not physically located within 100 miles of the issuing court's district, such as allowing the witness to assert objections during an on-the-record telephonic or video conference or incorporate the language of Rule 45(f), which states that "An attorney licensed to practice in the issuing district may appear as an officer of the issuing court solely to object to a subpoena for remote trial testimony.

c. Corresponding Changes to Rule 26

The Advisory Committee recommends a proposed amendment to Rule 26(a)(3)(A)(i) to clarify that each party's pretrial disclosures must specify whether any of the witnesses the party expects to present will provide testimony remotely. The FMJA supports this change because it alerts the parties to the need for remote testimony at the outset of a case to allow for sufficient

planning and coordination. This will minimize issues that often come up about whether remote testimony is permitted and is consistent with the intent of the Rules to encourage transparency in discovery and minimization of costs.

The amendment also simplifies the task of serving the subpoena by removing the requirement that the witness fee under 28 U.S.C. § 1821 be tendered at the time of service as a prerequisite to effective service. Though tender at the time of service should be done whenever practicable, the amendment permits tender to occur instead at the time and place the subpoena commands the person to appear. The requirement to tender fees at the time of service has in some cases further complicated the process of serving a subpoena, and this alternative should simplify the task. However, as noted above, in the case of low-income individuals, it may be better to require tender of fees no later than three days prior to the day the person is required to appear to account for individuals who may need the fees and costs to travel to the proceeding. The Rule could allow for tendering of fees and costs on the date of attendance if the witness consents.

3. FRCP 41

The proposed changes to Rule 41 would add language clarifying that a plaintiff may voluntarily dismiss "one or more of its claims" in a multi-claim case and clarify that, under Rule 41(a)(1)(A)(ii), a stipulation of dismissal need be signed only by all parties who have appeared and remain in the action.

While many courts have operated as if Rule 41 allowed for this, some courts concluded that the Rule as written did not permit the filing of "partial dismissals" on the grounds that the

Rule suggested a case could not be so narrowed by the parties. Magistrate Judges often handle cases on consent, including multi-party cases where this issue has arisen. The proposed changes provide clarity and allow for proper streamlining of cases. The FMJA agrees with the Advisory Committee that the amended Rule is more consistent with widespread practice and the general policy of narrowing the issues during pretrial proceedings and therefore endorses the change.

4. FRCP 81

The proposed change to Rule 81 clarifies when and whether a party to a removed action must demand a jury trial. It proposes that a party who demanded a jury trial prior to removal need not renew the demand after removal but that if no demand was made prior to removal, a demand must be made within 14 days after filing a notice of removal or being served with a notice of removal. This change eliminates confusion (and a trap for the unwary) that arose under the current Rule, particularly in states where jury demands are made long after the filing of an initial pleading. The Rule also clarifies that Rule 38, which governs demands for jury trials, applies to removed cases.

Magistrate Judges are frequently asked to resolve motions concerning whether a party has waived a right to a jury trial. The new Rule will eliminate motion practice on this issue and provide clarity for parties, particularly in those states with rules that differ from the federal rule. Accordingly, the FMJA endorses this rule change.

B. PROPOSED CHANGES TO THE FEDERAL RULES OF EVIDENCE

1. FRE 609

The proposed amendment to Rule 609(a)(1)(B), which currently allows for impeachment of criminal defendant witnesses with convictions not involving dishonesty or false statement if the probative value of the conviction in proving the witness's character for truthfulness outweighs the prejudicial effect. The amendment would make the Rule more exclusionary by providing that the probative value of the conviction would have to "substantially" outweigh its prejudicial effect. The proposed addition of "substantially" is likely to have the effect of courts considering more carefully the admission of such evidence. The FMJA endorses this change because it minimizes the potential for prejudice to criminal defendants and focuses the jury on the conduct at issue in the trial rather than the individual's past conduct.

2. FRE 707

The proposed new Rule pertains to evidence created by artificial intelligence ("AI") or "machine-generated evidence" designed to address reliability of computer-generated evidence and to ensure that it is properly regulated for reliability and authenticity. It requires that AI-generated evidence, if offered without an expert witness, must satisfy the requirements or Rule 702(a)-(d). That is, if machine output is the equivalent of expert testimony, it is not enough to be self-authenticated under Rule 902(13); rather, there must be other assurances of reliability under the preponderance of evidence standard applicable to expert testimony.

Magistrate Judges are frequently called upon to rule on FRE 702 applications and understand the concern about AI-generated evidence. However, the FMJA believes this proposed Rule is premature, particularly when the Rules of Civil Procedure do not yet expressly address AI and when there are other rules of evidence that exist to deal with AI-generated exhibits, which in the near-term would be summaries, demonstratives or calculations or images—

all of which can be exchanged in discovery or pre-trial or in connection with an expert report and explored through standard discovery methods. Additionally, insofar as AI, and generative AI in particular, is fast evolving, the FMJA believes that it is more prudent to see how AI-generated materials are introduced and see what problems actually arise before creating a rule that may be unnecessary or become quickly outdated. In other words, the FMJA believes it is too early to assess the full scope of issues with AI evidence and that a *Daubert* analysis may not be the best way to assess such evidence. The FMJA supports consideration of amendments to the Rules of Civil Procedure that would require disclosure of AI generated documents so that the opposing party has an opportunity to explore the manner in which the documents were generated and evaluate reliability concerns.

C. PROPOSED CHANGES TO THE FEDERAL RULES OF CRIMINAL PROCEDURE

There is only one change proposed to the Criminal Rules. The recommended change is to Rule 17 to allow subpoenas to third parties for information "relevant and material to the preparation of the prosecution or defense" to address a lack of clarity about whether the standard in *United States v. Nixon* applied and restricted defense subpoenas.

The FMJA enthusiastically endorsed this Rule change because it will provide much needed clarity and lead to consistency across districts.

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Comment from Kish, Tanner

Posted by the **United States Courts** on Jan 16, 2026

Comment

As a process server who's personally served hundreds if not thousands of subpoenas:

Rule 45 must keep personal service as the default. Subpoenas can lead to contempt, sanctions, real penalties. Due process demands certain, verifiable notice, not guesswork. Trained professionals deliver the paper, confirm receipt, and swear to it under oath. That's accountability.

"Confirmation of receipt" via mail or courier? It's a black hole. Undefined. Disputable. Who signed? Did the right person see it? Did they understand the stakes? It won't save time, it will only muddy the waters.

Federal rules shape state practice nationwide. Watering down personal service for subpoenas sets a dangerous precedent that weakens the standard everywhere.

Any alternative should be court-supervised. Convenience never outweighs due process.

Keep personal service the gold standard.

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Comment ID

USC-RULES-CV-2025-0004-0102

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Comment from LaSalle Process Servers

Posted by the **United States Courts** on Jan 16, 2026

Comment

Personal service is the only reliable method that confirms actual receipt.
Mail and email creates more uncertainty, not less.
A Weakened Rule 45 will spill into state rules and reshape subpoena service nationwide.
The proposed amendments risk more bad service, more disputes, and more court burden and time spent arguing over service issues when personal service has none of these problems

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Comment from CenterLine, LLC

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See attached file
Opposed to this Rule

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0104/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0104

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mkh-bzaf-zgmz

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server’s role in the justice system**, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

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Comment from Professional Process Servers & Investigators, Inc.

Posted by the **United States Courts** on Jan 16, 2026

Comment

We oppose the proposed amendments because they continue to move the courts away from personal service and toward more automated and administrative processes. Personal service is a critical safeguard for due process. It ensures accuracy, accountability, and reliable proof that parties were properly notified. Reducing the importance of human-executed service weakens these protections and risks turning service into simple “notice” rather than a legally meaningful act. For these reasons, I ask that the Committee preserve the role and legal importance of professional process servers.

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Comment from ITS DONE COURIER LLC

Posted by the **United States Courts** on Jan 16, 2026

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Tracking Number
mkh-doqo-g2gy

Comment Details | **Submitter Info**

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *Dan Patterson, it's DONE! Courier*
Date: January 16th 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

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- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

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Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Dan Patterson
Member, it's DONE! Courier
2142 S. Broad Street, Lower Level
Philadelphia, PA 19145
215-925-3663

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Comment from Connell Consulting Business Agency, LLC

Posted by the **United States Courts** on Jan 16, 2026

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Comment

As a Certified Process Server in the 15th and 19th Judicial Circuit of Florida, I oppose this rule change as it could drastically limit our role and negatively impact the profession.

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USC-RULES-CV-2025-0004-0107

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Comment from Johnson, Chris

Posted by the **United States Courts** on Jan 16, 2026

Comment

This rule should be passed. By allowing a person to be served by leaving the served document at a person's home actually safeguards due process rather than diminish it. While process companies stand to gain financial benefit if the rule fails, the general public and the court system loses if this rule fails. Moreover denying this rule simply incentivizes people to avoid service as much as possible. By permitting alternate service, the rule streamlines litigation and helps to ensure that litigants litigate in court versus playing hide and seek. This rule should pass regardless of the process servers' arguments to the contrary.

Comment ID
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Tracking Number
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Comment from Wilson, Ray

Posted by the **United States Courts** on Jan 19, 2026

Comment

I am writing as a professional process server with 15 years of experience to express my concerns regarding the proposed amendments to Federal Rule of Civil Procedure 45. While the goal of clarifying service methods is understandable, the shift toward mail-based service and the relaxation of fee-tendering requirements threaten the reliability of the federal subpoena power.

1. The High Risk of "Confirmation of Receipt" via Mail
The proposal to allow service via U.S. Mail or commercial carrier with "confirmation of actual receipt" is fundamentally flawed in a way that will increase litigation:

Lack of Personal Identification: Commercial carriers (FedEx/UPS) often leave packages with building managers, in mailrooms, or on porches. A "delivery confirmation" does not prove the named person received the subpoena.

Due Process Disputes: This ambiguity will lead to an influx of "motions to quash" and "motions for sanctions" as witnesses claim they never personally received the notice.

Privacy Concerns: Subpoenas often contain sensitive information. Professional servers ensure the document is handed to the correct person; mail leaves legal documents exposed to third parties.

2. The Essential Role of Investigative Service
The Committee Note suggests that service "usually does not present problems". My professional experience suggests otherwise:

Evasive Witnesses: Subpoenaed parties often actively avoid service. A mailed envelope is easily ignored or discarded.

Verification of Residency: Professional servers verify that a person actually resides at an address through

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"stakeouts, skip traces, and alternative-residence investigations". Mail-based systems cannot provide this critical verification.

3. Economic Impact on Small Business Infrastructure
The proposed rule changes represent a significant threat to the small businesses that sustain the judicial system's infrastructure:

Loss of Stability: For many independent servers, federal subpoena work provides the economic stability required to maintain operations.

Rural Access: If local process-serving agencies close due to a sharp decline in federal demand, the court will lose its most reliable means of service in rural or remote areas where commercial carriers are less effective.

4. Relaxed Fee Tendering and Compliance
The amendment to permit the tendering of fees at the "time and place" of appearance rather than at the time of service removes a critical incentive for witness compliance. Requiring the party to provide mileage and attendance fees upfront ensures the witness has the immediate means to comply with the court's command.

Conclusion I respectfully urge the Committee to maintain personal service as the presumptive standard for subpoenas. Alternative methods should remain available only as a "last resort" upon a showing of good cause, ensuring that the high standards of federal due process are not sacrificed for administrative convenience.

Sincerely,
Ray Wilso

Comment ID

USC-RULES-CV-2025-0004-0109

Tracking Number

mkh-jul3-uh68

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Comment from Parker, Lauren

Posted by the **United States Courts** on Jan 19, 2026

Comment

As a registered Process Server for many years, I can attest to the fact that electronic service presents more problems than it solves. It is unreliable create an opportunity for someone other than the intended recipient to access the documents. Personal service is the safest and most reliable way for the intended recipient to receive the documents. In addition to this, this would affect many peoples' livelihoods and create a huge financial burden for process servers.

Comment ID
USC-RULES-CV-2025-0004-0110

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mkh-ki3b-37dj

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Comment from Atkinson, Alexis

Posted by the **United States Courts** on Jan 19, 2026

Comment

I believe that this is a bad idea and will actually result in the failure of individuals testifying.

Comment ID
USC-RULES-CV-2025-0004-0111

Tracking Number
mkh-monn-n6vh

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Comment from Young , Kory

Posted by the **United States Courts** on Jan 19, 2026

Comment

I strongly oppose the proposed law allowing subpoenas to be delivered by mail.

A subpoena is a serious legal instrument with significant consequences. Allowing service by mail does not ensure reliable or verifiable delivery. Mail can be delayed, misdelivered, lost, or received by the wrong person. Unlike personal service, mail delivery provides no meaningful assurance that the intended recipient actually received notice in time to respond. This creates a real risk of people being penalized for noncompliance with subpoenas they never received.

This proposal also raises due process concerns. Individuals should not face legal consequences based on an untrustworthy method of notice, especially when compliance deadlines and penalties may be strict.

In addition, this change would harm me economically. Missing or delayed mail could result in legal costs, lost work time, penalties, or the need to hire legal assistance to resolve issues that arise solely from faulty service. These costs would fall unfairly on individuals and small businesses, not on the government or the issuing party.

Existing service requirements exist for a reason: to ensure fairness, certainty, and accountability. Weakening those standards undermines trust in the legal system and shifts risk onto the public.

For these reasons, I urge you to reject this proposal and maintain reliable, verifiable methods of serving subpoenas.

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Comment ID

USC-RULES-CV-2025-0004-0112

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mkh-musa-5ift

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Comment from Anonymous

Posted by the **United States Courts** on Jan 19, 2026

Comment

This procedure change will completely disrupt the proof of service, and will further strain the courts when witnesses deny receiving notice.

Comment ID
USC-RULES-CV-2025-0004-0113

Tracking Number
mkh-tqb0-m342

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Comment from Countrywide Process, LLC

Posted by the **United States Courts** on Jan 19, 2026

Comment

I respectfully submit my opposition to the proposed amendments to Rule 45. As explained in the attached comment, these changes prioritize convenience over certainty, threaten due process protections, increase litigation and court bottlenecks, and would adversely impact thousands of small businesses and professionals who play a critical role in the administration of justice.

Please see attached file(s)

Attachments 1

Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0114/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0114

Tracking Number

mkh-yzls-8zsx

Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

To the Members of the Advisory Committee on Civil Rules
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Dear Members of the Committee,

My name is Jack Demirchyan, and I submit this public comment on behalf of Countrywide Process, LLC, a multi-generation professional process service and legal support firm that operates nationwide and works daily with attorneys, courts, and non-party witnesses subject to compulsory process. I respectfully but firmly oppose the proposed amendments to Federal Rule of Civil Procedure 45.

While modernization and efficiency are laudable goals, the proposed expansion of non-personal service methods for subpoenas presents serious and foreseeable harms on multiple fronts. These harms extend beyond the process-serving profession itself and directly affect due process protections, court efficiency, public confidence in the judicial system, and broader societal outcomes.

This opposition is grounded in direct operational experience, constitutional considerations, and the practical realities of subpoena enforcement, and is consistent with the concerns raised by professional organizations and practitioners nationwide .

I. Severe Economic Impact on a Long-Standing Professional Industry

The proposed amendments would materially reduce the need for personal service of subpoenas by authorizing service through U.S. Mail, commercial carriers, and undefined “court-approved” alternatives. Federal subpoena service represents a meaningful and stabilizing portion of revenue for thousands of independent process servers, small agencies, and family-owned businesses across the country.

Eliminating or marginalizing personal service will:

- Reduce demand for trained, neutral professionals whose role is to ensure accurate, verifiable notice;
- Disproportionately harm small and rural operators who cannot absorb sudden structural changes;
- Accelerate consolidation toward large vendors and automated systems, eliminating skilled jobs rather than creating them.

At a time when the legal system should be supporting small businesses and skilled professions, these amendments would instead displace an entire workforce that exists specifically to uphold

due process. Rulemaking should not unintentionally function as an economic elimination mechanism for lawful, necessary professions.

II. Increased Court Bottlenecking and Systemic Delays

The proposed changes are likely to **increase**, not reduce, court congestion.

Personal service minimizes disputes because it provides sworn proof, contextual detail, and accountability. By contrast, mail and carrier-based service routinely result in:

- Disputes over who signed for delivery;
- Claims of non-receipt or misdelivery;
- Motions to quash, motions for protective orders, and renewed service efforts;
- Rescheduled depositions and missed hearings.

Every failed or disputed service creates downstream delays that burden litigants, courts, and court staff. In high-volume areas such as family law, child support, custody, and enforcement matters, missed appearances and default judgments can have life-altering consequences for the individuals involved.

The current Rule 45 framework works. The proposed amendments risk replacing a functioning system with one that generates uncertainty, litigation, and administrative backlog.

III. Erosion of Due Process and Enforceability

Service of process is not a mere delivery mechanism; it is a constitutional safeguard. Subpoenas compel testimony, production of documents, and compliance under threat of sanction. When enforcement power is that serious, notice must be beyond doubt.

Mail, email, and other indirect methods introduce unavoidable uncertainty:

- Documents can be mailed to outdated or incorrect addresses;
- Mailrooms, front desks, and household members can accept delivery without the recipient's knowledge;
- "Confirmed receipt" remains undefined and unverifiable as to actual notice.

If a person is not personally served—and has not knowingly waived personal service—courts are left in the untenable position of enforcing compliance where actual notice is disputed. This undermines the integrity of contempt proceedings, sanctions, and enforcement mechanisms.

Due process is not an inconvenience. It is a constitutional promise.

IV. Slippery Slope Toward Unsecure and Unaccountable Service Methods

Once non-personal service is normalized, the progression is predictable:

- From mail to email;
- From email to platform notifications;
- From platforms to social media or other third-party systems.

Each step increases cybersecurity risks, opportunities for hacking, impersonation, and falsification, and raises unresolved questions of liability:

- Who bears responsibility if a subpoena is intercepted, misdirected, or altered?
- Who is accountable when a party never receives actual notice?
- How will courts verify authenticity across fragmented digital systems?

The legal system should not be placed in a position where compulsory process depends on technologies that are inherently vulnerable and lack uniform verification standards.

V. Federal Changes Will Inevitably Spill Into State Courts

Federal procedural rules do not exist in isolation. They influence state legislatures, state supreme courts, and trial-level judges nationwide. Weakening personal service standards at the federal level will almost certainly be cited to justify similar erosions in state courts, even absent formal rule changes.

The long-term effect would be a nationwide reshaping of subpoena practice, diminishing safeguards that protect parties and non-parties alike.

VI. The Current Rule Is Not Broken

The Advisory Committee has acknowledged that subpoena service does not present systemic problems requiring sweeping reform. The proposed amendments address isolated anecdotes at the expense of established safeguards that function well in the vast majority of cases.

Replacing certainty with convenience is not progress.

VII. Request for Action

For these reasons, I respectfully urge the Advisory Committee to:

1. Reject the expansion of permissible service methods under Rule 45 as currently proposed;
2. Preserve personal service as the presumptive and enforceable standard for subpoenas;
3. Limit alternative service methods to narrow, court-supervised exceptions based on specific findings;
4. Conduct a formal economic and systemic impact assessment before adopting changes of this magnitude.

We should be creating jobs, strengthening due process, and improving court efficiency—not eliminating professions, increasing disputes, and weakening constitutional protections.

Thank you for your consideration of this comment and for your continued service to the integrity of the federal civil justice system.

Respectfully submitted,



Jack Demirchyan
Countrywide Process, LLC
Phone: 888.962.9696
Email: Admin@countrywideprocess.com
Website: www.countrywideprocess.com

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Comment from Alabama Legal and Investigative Services, Inc.

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Please see attached comments.

Regards,
Jim Henderson
Alabama Legal and Investigative Services, Inc.

Attachments 1

Public Comment Submission on Proposed

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0115/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0115

Tracking Number
mki-b85b-2bxb

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Jim Henderson / Alabama Legal and Investigative Services, Inc.

Date: 1/17/2026

To:

Committee on Rules of Practice and Procedure

Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comments on the proposed amendments to Federal

Rule of Civil Procedure 45. I am submitting this comment on behalf of [your organization / industry role] to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S.

Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

• materially reduce the demand for traditional in-hand subpoena service,

• cause significant revenue loss for thousands of professional process servers, particularly

independent servers and small agencies, and

• introduce systemic risks that may weaken the reliability and enforceability of federal

subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the

ambiguity that has historically preserved the central role of personal service and undermines an

industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide

federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable

category of professional work, particularly for independent servers and boutique agencies

operating in both metropolitan and rural regions.

Based on conservative projections:

• Demand for traditional hand-delivery will sharply decline,

• Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence

investigations will diminish, and

• Small businesses—many of which are family-operated—will face significant

financial pressure.

Unlike large service vendors, independent process servers cannot easily absorb this sudden

structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

• outdated or incorrect addresses,

• mail forwarding issues,

• shared or unsecured mailrooms, and

• carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient.**

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated

Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

• Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.

• In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.

• Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. Reduced demand for personal service in state courts, even without formal rule changes.

2. Growing vendor automation, shifting service away from skilled professionals.

3. Erosion of the process server's role in the justice system, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.

3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.

4. Gather additional testimony from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal

civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably,

and in a manner consistent with due process. While modernization is important, removing

personal service as the foundational standard threatens both procedural fairness and the

livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape

attorney behavior, influence state rulemaking, and jeopardize the very system of personal service

that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and

systemic risks identified above and to engage further with industry stakeholders before finalizing

any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Jim Henderson

President, Alabama Legal and Investigative Services, Inc.

Email: office@alis-inc.com

Phone: 334-478-4147

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Comment from Kellerman, Gregory

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Opposition to Proposed Amendments to the Federal Rules of Civil Procedure (Preliminary Draft August 2025)

I strongly oppose the proposed amendments to the Federal Rules of Civil Procedure as set forth in the Preliminary Draft (pages 33-67).

These changes would materially harm federal civil litigation in several ways:

They would significantly increase litigation costs and procedural complexity for all parties without any clear evidence of widespread abuse or demonstrated need that justifies such sweeping alterations.

They would restrict access to justice, particularly for individual plaintiffs and smaller entities, by unnecessarily limiting discovery scope, imposing stricter procedural hurdles, and reducing flexibility in case management.

They would undermine the core principles of efficiency, proportionality, and fairness that the Rules are intended to promote, ultimately slowing case resolution, burdening the judiciary, and discouraging meritorious claims.

For these reasons, I urge the Advisory Committee on Civil Rules to reject the proposed amendments in their current form or return them for substantial revision after further study and broader stakeholder input.

Sincerely,
Greg Kellerman

Kellermaninvestigations@gmail.com

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Comment ID

USC-RULES-CV-2025-0004-0116

Tracking Number

mki-dcd0-nrce

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Comment from thomas, cynthia

Posted by the **United States Courts** on Jan 19, 2026

Comment

I am submitting this comment to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:
• materially reduce the demand for traditional in-hand subpoena service,
• cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
• introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.
While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.
Based on conservative projections:
• Demand for traditional hand-delivery will sharply decline,
• Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and
• Small businesses—many of which are family-operated—will face significant financial pressure.

Give Feedback

Process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

Personal service is a cornerstone of procedural fairness.
Mail-based systems present well-documented risks:
• outdated or incorrect addresses,
• mail forwarding issues,
• shared or unsecured mailrooms, and
• carrier logs that confirm delivery, but not delivery to the intended recipient.
These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a legal obligation.
A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.
Based on decades of procedural evolution:
• Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
• In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
• Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.
The ripple effect is predictable and dangerous:
1. Reduced demand for personal service in state courts, even without formal rule changes.
Growing vendor automation, shifting service away from skilled professionals.
Erosion and weakening of procedural safeguards that protect litigants’ rights.
This second wave represents significant long-term threat to the industry.

For these reasons, I respectfully urge the Committee to:
Withdraw the amendments as currently drafted.
Preserve personal service as the method of subpoena delivery, with alternative methods available only upon a specific court finding.
Conduct an economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
Gather testimony from professional associations whose members will be significantly impacted.
Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments will erode these principles while also destabilize an entire profession that has served the courts dependably for generations.

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. Removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

Give Feedback

A federal rule change will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the system of personal service that safeguards litigants' rights nationwide.

I ask the Committee to give full consideration to the significant economic and systemic risks identified above and reject Rule 45.

Comment ID

USC-RULES-CV-2025-0004-0117

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mki-g4vt-mf61

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Comment from All New York Process Servers, Inc.

Posted by the **United States Courts** on Jan 19, 2026

Comment

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0118

Tracking Number
mki-kflq-4iyz

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45
Submitted by: Christina Katz/All New York Process Servers Inc.
Date: January 17, 2026

To:
Committee on Rules of Practice and Procedure Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45
Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of All New York Process Servers Inc. to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- Demand for traditional hand-delivery will sharply decline,
- Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and
- Small businesses—many of which are family-operated—will face significant financial pressure.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness. Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. Reduced demand for personal service in state courts, even without formal rule changes.
2. Growing vendor automation, shifting service away from skilled professionals.
3. Erosion of the process server’s role in the justice system, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.
3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. Gather additional testimony from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Christina Katz

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Comment from Central Florida Intelligence LLC

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

To the Committee on Rules of Practice and Procedure,
I am writing to express my opposition to certain aspects of the proposed amendments to FRCP 45.
Key Concerns:
Service of Process (Rule 45(b)(1)): The proposed shift to allow service via mail or commercial carrier could lead to significant "due process concerns." Unlike personal service, mail-based service may not reach the appropriate legal agent in a timely manner, especially for large organizations with complex mail systems. This creates a risk of unintentional defaults or missed objection deadlines.
Remote Testimony: While the amendments clarify nationwide subpoena power for remote testimony, they may inadvertently increase the burden on witnesses who would otherwise be protected by the "100-mile rule." Compelling remote attendance still requires preparation time and technical resources that may be unduly burdensome for non-parties.
Lack of Cost-Shifting Protections: The proposed amendments fail to address the critical issue of unreimbursed third-party costs. Any expansion of subpoena power should be balanced with mandatory cost-shifting to ensure that non-parties are not forced to subsidize the discovery costs of others.
Conclusion: I urge the Committee to reconsider these changes or, at a minimum, include stronger safeguards to protect non-parties from the logistical and financial burdens these amendments would impose.

Sincerely,
Angel Allison

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Attachments 1

To the Committee on Rules of Practice and Procedure

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Comment ID

USC-RULES-CV-2025-0004-0119

Tracking Number

mki-sec7-rfun

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To the Committee on Rules of Practice and Procedure,

I am writing to express my opposition to certain aspects of the proposed amendments to FRCP 45.

Key Concerns:

Service of Process (Rule 45(b)(1)): The proposed shift to allow service via mail or commercial carrier could lead to significant "due process concerns." Unlike personal service, mail-based service may not reach the appropriate legal agent in a timely manner, especially for large organizations with complex mail systems. This creates a risk of unintentional defaults or missed objection deadlines.

Remote Testimony: While the amendments clarify nationwide subpoena power for remote testimony, they may inadvertently increase the burden on witnesses who would otherwise be protected by the "100-mile rule." Compelling remote attendance still requires preparation time and technical resources that may be unduly burdensome for non-parties.

Lack of Cost-Shifting Protections: The proposed amendments fail to address the critical issue of unreimbursed third-party costs. Any expansion of subpoena power should be balanced with mandatory cost-shifting to ensure that non-parties are not forced to subsidize the discovery costs of others.

Conclusion: I urge the Committee to reconsider these changes or, at a minimum, include stronger safeguards to protect non-parties from the logistical and financial burdens these amendments would impose.

Sincerely,

Angel Allison

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Comment from Hetherington, Erica

Posted by the **United States Courts** on Jan 19, 2026

Comment

See attached file(s)

Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45 (1)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0120/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0120

Tracking Number
mki-wu47-kk9i

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Erica Hetherington, Hetherington Services, Inc.
Date: *January 17, 2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,



Erica Hetherington
President,
Hetherington Services
hethserve@outlook.com
813.810.8035

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Comment from Dean, Andrew

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

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Attachments 1

Public Comment Submission on Proposed

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0121/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0121

Tracking Number
mkj-qb3o-h61v

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Andrew Dean
Date: January 18, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of myself, Andrew Dean to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.
A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behaviour, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,



Andrew Dean

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Comment from Hollmann-Rawlings, Nicki

Posted by the **United States Courts** on Jan 19, 2026

Comment

Anyone who has experienced a lost package or stolen package or the reliability of the postal service, even with electronic confirmation by the carrier, would all agree, that these changes will certainly result in general deniability of receipt by the recipient. Service of process by someone who is certified or has been vetted to be reliable and responsible and who provides an affidavit of service is the best interest of the judicial system.

Comment ID
USC-RULES-CV-2025-0004-0122

Tracking Number
mkj-vnit-5uta

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Jan 18, 2026

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Comment from Gates & Associates

Posted by the **United States Courts** on Jan 19, 2026

Comment

To the Committee on Rules of Practice and Procedure
and the Administrative Office of the United States Courts,

Gates & Associates respectfully submits this public comment regarding the proposed amendments to Federal Rule of Civil Procedure 45. As a professional court services firm engaged in lawful service of process, we write to express significant concern about the practical, economic, and due process implications of the proposed changes if adopted in their current form.

The proposed expansion of permissible service methods for subpoenas, particularly those allowing service by mail, commercial delivery services, or other non-personal means without a prior court finding, raises serious concerns regarding reliability, procedural fairness, and the erosion of long-standing safeguards. Personal, in-hand service has historically served as the most reliable method for ensuring actual notice, accountability, and compliance. Moving away from this standard risks undermining the core function subpoenas are intended to fulfill.

From an operational and due process perspective, alternative service methods present inherent limitations. Mail and courier delivery do not ensure receipt by the intended individual. Subpoenas may be misdelivered, forwarded, accessed by third parties, or deposited in shared mail locations. Delivery confirmation only establishes that an item reached an address, not that it was personally received, reviewed, or understood by the named recipient. These weaknesses increase the likelihood of service challenges, non-compliance, and additional litigation, which may ultimately increase burdens on the courts rather than reduce them.

The proposed amendments also present meaningful economic implications for professional process service organizations. Firms such as Gates & Associates, many of which operate as small, independent businesses, provide a critical function within the judicial system by ensuring lawful, verifiable, and documented service of process. Reducing the reliance on personal service diminishes professional standards, weakens accountability, and directly impacts the sustainability of firms that exist to uphold these

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standards. The resulting effects extend beyond individual businesses and threaten the broader infrastructure that supports effective civil procedure.

Further, amendments adopted at the federal level frequently influence state procedural rules. Approving these changes risks initiating a broader shift away from personal service in state courts, compounding the reliability and due process concerns already present. Such outcomes may reduce uniformity and public confidence in the service of process nationwide.

If alternative service methods are to be permitted, they should remain limited and secondary, authorized only upon a specific judicial finding that personal service is impracticable despite reasonable efforts. Preserving personal service as the presumptive method maintains procedural integrity, protects due process rights, and ensures meaningful notice.

For these reasons, Gates & Associates respectfully urges the Committee to reconsider the proposed amendments as currently drafted. At a minimum, we encourage the preservation of personal service as the primary method of subpoena service, the completion of a comprehensive economic impact assessment, and further consultation with professionals and organizations directly affected by these changes.

Thank you for the opportunity to provide comment and for your continued efforts to uphold fairness and reliability within the federal civil justice system.

Respectfully submitted,

Kaden Gates
Owner, Gates & Associates
Professional Court Services
Tennessee

Comment ID
USC-RULES-CV-2025-0004-0123

Tracking Number
mkk-7mhk-g50j

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Received Date
Jan 18, 2026

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Comment from Delphi Services

Posted by the **United States Courts** on Jan 19, 2026

Comment

This will destroy the integrity of due process in the court and invalidate court proceedings. We have seen the bedlam mail-in voting has caused, shouldn't process servicebe as important as safeguarding the vote.

Comment ID
USC-RULES-CV-2025-0004-0124

Tracking Number
mkk-h8ea-hw5s

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Jan 18, 2026

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Comment from BREWSTER INVESTIGATIONS LLC

Posted by the **United States Courts** on Jan 19, 2026

Comment

Brewster Investigations LLC strongly opposes the proposed amendments to Federal Rule of Civil Procedure 45 that would authorize non-personal methods of subpoena service, such as U.S. mail or commercial carriers, because these changes would devastate small, independent process-serving businesses like ours by sharply reducing demand for traditional in-hand delivery, stakeouts, skip traces, and related investigative services, resulting in significant revenue loss and financial hardship for family-operated and rural agencies. Beyond the economic impact, allowing alternative service methods undermines fundamental due process by introducing substantial risks—such as outdated addresses, mail forwarding problems, shared mailboxes, and delivery confirmations that fail to verify receipt by the intended recipient—thereby weakening subpoena enforceability, increasing noncompliance disputes, and burdening courts. Furthermore, this federal shift would likely create a “second wave” spillover, influencing state courts to adopt similar practices and accelerating automation that erodes the essential role of professional process servers in safeguarding procedural fairness nationwide.

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Comment ID
USC-RULES-CV-2025-0004-0125

Tracking Number
mkk-hy0z-dgnn

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Comment from Haley, Carolyn

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Attachments 1

Public Comment on Proposed Amedments fo FRCP Rule 45-signed

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Comment ID
USC-RULES-CV-2025-0004-0126

Tracking Number
mkl-74g2-85p6

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Comment from Glenn Brooks & Associates

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45 signed

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0127/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0127

Tracking Number
mkl-f0fc-58sp

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Name / Organization]*
Date: *[Insert Date]*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Glenn Brooks & Associates, Professional Process Servers, Huntsville, AL to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Sheila Brooks
Owner, Glenn Brooks & Associates
4800 Whitesburg Drive, Suite 30-247
Huntsville, AL 35822
256-797-6200

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Comment from KUSHNER chapter48.com, KRIS

Posted by the **United States Courts** on Jan 19, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

I am a process server. I have owned a small company since 1998. It seems this proposed amendment is being introduced to make service more convenient for the plaintiff/defendant. I feel this convenience will create opportunities for service to be done improperly. It will undoubtedly create instances where a witness who wasn't served, can fall under the court's jurisdiction and face penalties for failing to comply. This is unfair and should not be considered Due Process. As process servers we take an oath to uphold our duties pursuant to civil procedure. I feel this amendment to Rule 45 is unnecessary. The standard for personal service by a Process Server / Ellisor should be maintained. I request that the Advisory Committee reject the expansion of permissible service methods.

Comment ID
USC-RULES-CV-2025-0004-0128

Tracking Number
mkl-izqx-copq

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Comment Details | **Submitter Info**

Received Date
Jan 19, 2026

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Comment from George Sano Investigations

Posted by the **United States Courts** on Jan 20, 2026

Comment

Public Comment on Proposed Amendments to Federal Rule of Civil Procedure 45
Submitted by: George Sano/ George Sano Investigations
Date: January 19, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Dear Members of the Committee,

I respectfully submit this comment to oppose the proposed amendments to Federal Rule of Civil Procedure 45 that would authorize non-personal methods of subpoena service, including U.S. Mail and commercial carriers.

These amendments represent a fundamental departure from longstanding federal practice and threaten both procedural reliability and the economic viability of the professional process-serving industry.

_____

Core Concerns

1. Economic Harm to Small Businesses
Professional process servers—many of them independent, family-operated businesses—perform a critical function in federal litigation. Federal subpoena service constitutes a stable and meaningful portion of their work. Formal authorization of mail-based service will sharply reduce demand for in-hand delivery, eliminate associated investigative work, and impose disproportionate harm on small operators who lack the scale to absorb this shift.

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No comprehensive economic impact assessment has been publicly provided, despite the amendment's clear effect on thousands of small businesses nationwide.

2. Increased Risk to Due Process and Enforceability
Personal service is a cornerstone of procedural fairness. Mail and carrier-based service methods are inherently unreliable and prone to error, including outdated addresses, mail forwarding, shared mailrooms, and delivery confirmations that do not establish receipt by the intended recipient. These deficiencies increase the likelihood of disputes, noncompliance, and motions to quash—ultimately burdening litigants and courts.

3. Predictable Spillover into State Practice
Although limited to federal court, this amendment will not remain confined there. States that model their civil rules on the FRCP are likely to follow suit, and courts nationwide routinely treat federal rules as persuasive authority. The result will be a widespread erosion of personal service, increased automation, and the gradual displacement of skilled professionals who safeguard notice and compliance across jurisdictions.

_____

Request for Action

I respectfully urge the Committee to:

1. Withdraw or substantially revise the proposed amendments;
2. Preserve personal service as the presumptive method of subpoena delivery, allowing alternatives only upon a specific court finding;
3. Conduct and publish a meaningful economic impact assessment; and
4. Solicit further input from professional associations whose members will be directly affected.

_____

Conclusion

Modernization should not come at the expense of due process or the stability of an industry that has reliably served the federal courts for generations. The proposed amendments risk weakening subpoena enforcement, increasing litigation disputes, and destabilizing a profession essential to the justice system.

I respectfully ask the Committee to reconsider these amendments before final action is taken.

Thank you for your consideration.

Respectfully submitted,

George Sano
George Sano Investigations
360 E. 1st St. Suite 773
Tustin, CA 92780

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Comment ID

USC-RULES-CV-2025-0004-0129

Tracking Number

mkl-xufy-jy7d

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Comment from Priority One Process Service Inc.

Posted by the **United States Courts** on Jan 21, 2026

Comment

The concept of using an independent body, such as a Sheriff or a licensed private process server, to serve legal documents dates back to the original Federal Marshals. This system was established to ensure that a neutral party delivers notice to individuals or entities that the court requires something from them. The purpose was to give the court jurisdiction over the person being served while allowing an impartial body to handle the notifications.

If we remove this independent, disinterested party from the process, we must ask: what is the purpose and meaning of a court case? Why go through the trouble of navigating the legal system if we rely solely on the parties involved in a lawsuit to notify those concerned?

The legal system was designed with specific intentions, and it should not be entrusted to the interested parties in a case.

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Comment from Mason, Chris

Posted by the **United States Courts** on Jan 21, 2026

Comment

I strongly stand in opposition to this as it is not a guarantee of service.

Comment ID
USC-RULES-CV-2025-0004-0131

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mkn-b1lk-ttx7

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Comment from FITTS , SHEREICE F

Posted by the **United States Courts** on Jan 26, 2026

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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mko-93e3-3ed7

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Shereice Fitts/All New York Process Servers Inc.
Date: January 21, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of All New York Process Servers Inc. to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Jennifer Gorankoff Katz

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Comment from Karotkin, Jeff

Posted by the **United States Courts** on Jan 26, 2026

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Attachments 1

Jeff Karotkin_Public_Comment_FRCP45_With_Citations

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mko-fztn-5vi1

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Public Comment on Proposed Amendments to Federal Rule of Civil Procedure 45

Submitted to the Advisory Committee on Civil Rules

Submitted by Jeff H. Karotkin

Introduction

Thank you for the opportunity to submit public comments on the proposed amendments to Federal Rule of Civil Procedure 45. I submit these comments informed by more than four decades of experience in the service of process industry.

These comments are not offered as an economic objection on behalf of any particular profession. Rather, they are intended to address practical, procedural, and due process concerns raised by the proposed expansion of permissible subpoena service methods. As the Advisory Committee's Preliminary Draft acknowledges, Rule 45 service issues are rare under the current framework, and the existing rule generally functions as intended.[1]

Personal Service as the Gold Standard for Subpoena Service

Rule 45 subpoenas uniquely compel action from non-parties and carry the potential for contempt sanctions. For that reason, confidence in actual receipt by the intended individual is essential. Personal, in-hand service remains the only method that consistently confirms delivery to the correct person.

Professional process servers verify identity, correct outdated or inaccurate addresses, document service attempts, and mitigate common real-world failures associated with mobility, shared residences, and evasive behavior. These safeguards are not replicated by mail delivery, electronic transmission, or commercial carriers.

Risks Introduced by Expanded Alternative Service Methods

The proposed amendments would expressly permit service by mail, commercial carriers, email, and other court-approved means. While these methods may confirm delivery to an address, inbox, or device, they do not reliably confirm receipt by the intended individual.

In practice, alternative service methods frequently result in delivery to shared mailrooms, building staff, outdated addresses, inactive email accounts, or unintended recipients. Signature confirmation alone does not establish identity, awareness, or understanding of

the subpoena's obligations. These gaps increase the likelihood of incomplete or ineffective service.

Increased Litigation Risk and Court Burden

Rather than reducing disputes, the proposed amendments are likely to increase them. Courts may face additional motions to quash, challenges to service validity, and disputes over notice after compliance deadlines have passed.

The Advisory Committee's Preliminary Draft identifies only a small number of cases involving service issues, and those cases largely involve evasive conduct by subpoena recipients rather than deficiencies in the current rule. This limited record does not demonstrate a systemic problem warranting a fundamental shift away from personal service.[12]

Broader Implications Beyond Federal Court

Approximately thirty-five states model their civil procedure rules on the Federal Rules of Civil Procedure. Although state courts do not automatically adopt federal amendments, changes to the Federal Rules frequently influence state-level rulemaking and judicial interpretation over time.

Weakening the federal standard for subpoena service risks a second-order effect in which state courts gradually adopt similar approaches, resulting in a nationwide erosion of reliable service standards and increased uncertainty in subpoena enforcement.

Recommended Approach

If amendments to Rule 45 proceed, personal service should remain the preferred and presumptive method for subpoenas compelling testimony or production. Alternative service methods should be permitted only after reasonable, documented efforts at personal service have been made, or where the court is satisfied that actual receipt by the intended recipient can be reliably demonstrated.

Any modernization of Rule 45 should prioritize certainty, due process, and confidence in service outcomes over administrative convenience.

Conclusion

The current Rule 45 framework provides courts and litigants with a high degree of confidence that subpoenas reach their intended recipients. The proposed amendments risk undermining that confidence, increasing disputes, and burdening courts with avoidable service challenges.

For these reasons, ServeManager respectfully urges the Advisory Committee to reconsider the proposed expansion of alternative service methods and to preserve personal service as the preferred standard for federal subpoenas.

References

[1] Advisory Committee on Civil Rules, Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure (August 2025).
[2] Lawyers' Committee for Civil Justice, Public Comment on Rule 45 Service of Subpoenas (Oct. 10, 2025).

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Comment from Fonville, Douglas

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This proposal would cause immediate and long-term harm to he Private Process Service business of which I am a participant. Due to my background and experiences, I would have been destitute had it not been for being able to be a process server where I am located.. This rule change could and probably would lead to my economic demise and damage the credibility of serves sent via the USPS mail service which can not reliably confirm exact delivery to respondents of documents that has to take place. Sincerely, Douglas Fonville PSC 9114 - Exp 9/30/27 (Texas). Please see attached document.

Attachments 1

FRPC Rule 45 Response_1-22-26

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0134/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0134

Tracking Number

mkp-u5t1-e80c

Public Comment Submission on Proposed

Amendments to FRCP Rule 45
Submitted by: Douglas Fonville
Date: January 22, 2026
To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of FPS Process to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S.Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline,**
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and**
- **Small businesses—many of which are family-operated—will face significant financial pressure.**

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient.**

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Douglas Fonville

Douglas Fonville
FPS Process
elsancudo@hotmail.com
(979) 702-9180

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Comment from Burrell, Thomas

Posted by the **United States Courts** on Jan 26, 2026

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Opposition to the Proposed Amendment to Rule 45: A Constitutional Argument
The proposed changes to Rule 45 regarding the service of subpoenas introduce significant procedural risks that threaten the Due Process rights of respondents. By prioritizing administrative convenience over the rigorous standards of personal service, the amendment creates a framework where legal commands can be considered "served" without ensuring the individual has actually received them.
1. Violation of Due Process through "Last Known Address" Service
The amendment authorizes service by sending a copy to a person’s last known address via U.S. mail or commercial carrier.
• Reliability Gap: Due process requires notice "reasonably calculated" to reach the interested parties. Relying on a "last known address" is inherently prone to error, as individuals frequently move without updating public records.
• Confirmation Ambiguity: While the rule requires "confirmation of actual receipt," it does not prescribe the exact method of confirmation. This allows for a subpoena to be deemed effective even if signed for by a neighbor, a building manager, or an automated system, rather than the respondent.
• Risk of Contempt: A respondent could face judicial sanctions for failing to appear when they never had actual knowledge of the subpoena, a clear violation of fundamental fairness.
2. Erosion of the Tradition of Personal Service
Historically, Rule 45 has been interpreted to require hand delivery to ensure the high level of certainty required to compel a person's attendance.
• Substitute Service Vulnerability: The proposal allows leaving a copy with someone of "suitable age and discretion" at a person's abode. This removes the direct verification of identity that a professional process server provides.
• Lack of Accountability: By moving toward mail and "other means," the court distances itself from the professional oversight of certified individuals who ensure service standards are strictly met.
3. Weakening the Solemnity and Mechanics of Service
The proposal significantly alters the "tendering" of fees, which has traditionally been a prerequisite for

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effective service.
• Financial Burden: Removing the requirement to tender witness fees and mileage at the time of service forces the respondent to front the costs of compliance.
• Procedural Safeguards: The requirement to pay upfront served as a check on the serving party and a signal of the command's legitimacy to the respondent. Allowing payment at the time of appearance instead of service removes this traditional safeguard.
4. Expansion of Discretionary Service
The amendment grants courts the authority to use "another means" for good cause.
• Standardless Notice: While the rule states the method must be "reasonably calculated to give notice," this broad language allows for non-traditional and potentially unreliable methods (such as digital or electronic service) that do not carry the same constitutional weight as established service traditions.
Conclusion
While the proposed changes aim to "simplify the task" and reduce "delays," constitutional rights should not be sacrificed for efficiency. The reliance on last known addresses and the dilution of personal delivery standards directly undermine the Due Process requirements of actual notice and fair procedure.

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USC-RULES-CV-2025-0004-0135

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mkq-bavk-j5b2

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Comment from Anonymous

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To the Honorable Committee on Rules of Practice and Procedure,
I am writing as an interested member of the public to offer comments on the Preliminary Draft of Proposed Amendments to the Federal Rules, specifically focusing on the proposed changes to the Federal Rules of Civil Procedure (Rules 7.1, 26, 41, 45, and 81). I appreciate the Judiciary's commitment to regular review and refinement of these crucial procedural rules, and I thank the Committee for providing an extensive opportunity for public input before the February 16, 2026 deadline.
Overall, the proposed amendments appear aimed at increasing efficiency, clarifying obligations, and reducing procedural pitfalls. Regarding Civil Rule 45, changes concerning the place of compliance for subpoenas (Rule 45(c)) seem like a sensible adjustment to reflect modern litigation practices and potentially streamline enforcement efforts by aligning them more closely with the scope of discovery required. Similarly, amendments to Rule 41 concerning the dismissal of actions likely seek to clarify timing or effect under certain circumstances, which is always beneficial for practitioners aiming to avoid inadvertent dismissals or confusion over the status of a case.
I am particularly interested in the proposed amendments to Rule 26, which governs the duty to disclose and general provisions governing discovery. Given the perpetual tension between thorough fact development and the burden of extensive discovery, any proposed clarification or refinement in this area warrants careful scrutiny. While the specific details of the Rule 26 changes are not fully detailed in the introductory document, I look forward to reviewing the supporting materials to understand how these amendments might impact the proportionality and necessity of initial disclosures and subsequent discovery requests. Ensuring that disclosure obligations are clear and robustly enforced is vital for managing litigation costs and promoting early case resolution.
Finally, I note the amendments proposed for Rule 7.1 (Disclosure Statement) and Rule 81 (Applicability). Rule 7.1 changes likely aim to enhance transparency regarding corporate affiliations, a matter of ongoing importance for managing conflicts of interest. For Rule 81, which deals with the applicability of the rules in general and removed actions, any clarification is welcome, as removed cases often present unique jurisdictional and procedural questions upon transition from state to federal court.

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My full review of the supporting reports will focus on ensuring that these procedural housekeeping changes do not inadvertently introduce new ambiguities or unduly burden litigants, especially in smaller or less complex matters. I intend to submit more detailed, rule-specific comments electronically before the deadline. Thank you again for your diligent work on these proposals.

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USC-RULES-CV-2025-0004-0136

Tracking Number

mkr-21xu-lv7q

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Comment from Arizona Quick Serve

Posted by the **United States Courts** on Jan 26, 2026

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Convenience and administrative efficiency should not be prioritized at the expense of enforceability, reliability, and fundamental notice requirements. Subpoenas are coercive legal instruments, and their legitimacy depends on clear proof that the recipient actually received and understood the obligation imposed. Diluting personal service as the presumptive standard risks trading short-term convenience for increased disputes, diminished compliance, and erosion of due-process protections that courts rely upon to justify enforcement.

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USC-RULES-CV-2025-0004-0137

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Comment from CALSPro

Posted by the **United States Courts** on Jan 26, 2026

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PUBLIC COMMENT ON PROPOSED AMENDMENTS TO FEDERAL RULE OF CIVIL PROCEDURE 45
Submitted to the Advisory Committee on Civil Rules
On Behalf of the California Association of Legal Support Professionals (CALSPro)

INTRODUCTORY STATEMENT

The California Association of Legal Support Professionals (CALSPro) respectfully submits this comment regarding the proposed amendments to Federal Rule of Civil Procedure 45.

CALSPro represents process servers and legal support professionals in the State of California, who serve as neutral, independent third parties within the justice system. Our members perform a critical public-trust function by delivering legal notice without bias, influence, or advocacy, while protecting the rights of all parties involved. California registered process servers provide an essential safeguard against abuse, error, and misinformation. Through verifiable service, documented proof of delivery, and strict adherence to statutory and ethical standards, to help preserve fairness, transparency, and due process in judicial proceedings.

While our Association supports innovation where it improves clarity, efficiency, and compliance. However, procedural reforms should be guided by demonstrated need and should preserve the reliability of notice mechanisms that courts and litigants depend upon. In CALSPro's view, the proposed expansion of service methods for subpoenas risks reducing certainty without sufficient justification.

ROLE OF PERSONAL SERVICE IN SUBPOENA ENFORCEMENT

Rule 45 governs subpoenas that impose affirmative legal obligations on individuals who are often non-parties to the underlying litigation. These obligations may include compelled testimony, production of confidential records, or court appearances under threat of sanction.

Courts have long recognized that due process requires notice reasonably calculated to reach the intended recipient, as articulated in Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950), and reaffirmed in Jones v. Flowers, 547 U.S. 220 (2006).

Personal service remains the most consistent method for meeting this standard. From an institutional perspective, it provides courts with a verifiable chain of delivery, sworn declarations, accountable third-party witnesses, and a factual basis for resolving service disputes efficiently.

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CONCERNS WITH BROADER AUTHORIZATION OF ALTERNATIVE METHODS
The proposed amendments contemplate wider use of service by mail, email, or commercial delivery services. CALSPro is concerned that their routine use for subpoenas will increase disputes rather than reduce them. Alternative methods can cause questions regarding personal receipt, address validity, and recipient awareness of legal obligations. These uncertainties often surface only after compliance deadlines have passed, complicating enforcement and judicial review.
SYSTEMIC IMPACT ON COURTS AND LITIGANTS
Predictable service standards reduce motion practice, minimize collateral disputes, and protect non-parties from inadvertent exposure to sanctions. The Committee's own review reflects that disputes under Rule 45 are uncommon, suggesting that the current framework is functioning effectively.
LIMITATIONS OF PROPOSED SAFEGUARDS
While proposed safeguards such as signature confirmation and notice periods are helpful, they do not establish identity, authority, or comprehension. Electronic indicators and carrier confirmations provide limited assurance in contested cases.
CALSPRO RECOMMENDATIONS
1. Retain personal service as the default method for subpoenas compelling testimony or appearance.
2. Allow alternative service only upon documented, unsuccessful attempts at personal service.
3. Require affirmative evidence linking receipt to the intended witness when alternative methods are authorized.
CONCLUSION
Rule 45 has historically provided courts with a clear and dependable framework for subpoena service. CALSPro urges the Committee to proceed cautiously and preserve personal service as the cornerstone of due process protections.
President, CALSPro
Jackie Janney
president@calspro.org

Attachments 1

finalpubliccommentfor45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0138/attachment_1.pdf)

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mkr-hdwk-fln6

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PUBLIC COMMENT ON PROPOSED AMENDMENTS TO FEDERAL RULE OF CIVIL PROCEDURE 45

Submitted to the Advisory Committee on Civil Rules
On Behalf of the California Association of Legal Support Professionals (CALSPro)

INTRODUCTORY STATEMENT

The California Association of Legal Support Professionals (CALSPro) respectfully submits this comment regarding the proposed amendments to Federal Rule of Civil Procedure 45.

CALSPro represents process servers and legal support professionals in the State of California, who serve as neutral, independent third parties within the justice system. Our members perform a critical public-trust function by delivering legal notice without bias, influence, or advocacy, while protecting the rights of all parties involved. California registered process servers provide an essential safeguard against abuse, error, and misinformation. Through verifiable service, documented proof of delivery, and strict adherence to statutory and ethical standards, to help preserve fairness, transparency, and due process in judicial proceedings.

While our Association supports innovation where it improves clarity, efficiency, and compliance. However, procedural reforms should be guided by demonstrated need and should preserve the reliability of notice mechanisms that courts and litigants depend upon. In CALSPro's view, the proposed expansion of service methods for subpoenas risks reducing certainty without sufficient justification.

ROLE OF PERSONAL SERVICE IN SUBPOENA ENFORCEMENT

Rule 45 governs subpoenas that impose affirmative legal obligations on individuals who are often non-parties to the underlying litigation. These obligations may include compelled testimony, production of confidential records, or court appearances under threat of sanction.

Courts have long recognized that due process requires notice reasonably calculated to reach the intended recipient, as articulated in Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950), and reaffirmed in Jones v. Flowers, 547 U.S. 220 (2006).

Personal service remains the most consistent method for meeting this standard. From an institutional perspective, it provides courts with a verifiable chain of delivery, sworn declarations, accountable third-party witnesses, and a factual basis for resolving service disputes efficiently.

CONCERNS WITH BROADER AUTHORIZATION OF ALTERNATIVE METHODS

The proposed amendments contemplate wider use of service by mail, email, or commercial delivery services. CALSPro is concerned that their routine use for subpoenas will increase disputes rather than reduce them. Alternative methods can-cause questions regarding personal receipt, address validity, and recipient awareness of legal obligations. These uncertainties often surface only after compliance deadlines have passed, complicating enforcement and judicial review.

SYSTEMIC IMPACT ON COURTS AND LITIGANTS

Predictable service standards reduce motion practice, minimize collateral disputes, and protect non-parties from inadvertent exposure to sanctions. The Committee's own review reflects that disputes under Rule 45 are uncommon, suggesting that the current framework is functioning effectively.

LIMITATIONS OF PROPOSED SAFEGUARDS

While proposed safeguards such as signature confirmation and notice periods are helpful, they do not establish identity, authority, or comprehension. Electronic indicators and carrier confirmations provide limited assurance in contested cases.

CALSPRO RECOMMENDATIONS

1. Retain personal service as the default method for subpoenas compelling testimony or appearance.
2. Allow alternative service only upon documented, unsuccessful attempts at personal service.
3. Require affirmative evidence linking receipt to the intended witness when alternative methods are authorized.

CONCLUSION

Rule 45 has historically provided courts with a clear and dependable framework for subpoena service. CALSPro urges the Committee to proceed cautiously and preserve personal service as the cornerstone of due process protections.

President, CALSPro

Jackie Janney

president@calspro.org

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Comment from Karotkin, Jeff

Posted by the **United States Courts** on Jan 26, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Jeff Karotkin_Public_Comment_FRCP45_With_Citations

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Comment ID
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mku-0fjo-ggbq

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Public Comment on Proposed Amendments to Federal Rule of Civil Procedure 45

Submitted to the Advisory Committee on Civil Rules

Submitted by Jeff H. Karotkin

Introduction

Thank you for the opportunity to submit public comments on the proposed amendments to Federal Rule of Civil Procedure 45. I submit these comments informed by more than four decades of experience in the service of process industry.

These comments are not offered as an economic objection on behalf of any particular profession. Rather, they are intended to address practical, procedural, and due process concerns raised by the proposed expansion of permissible subpoena service methods. As the Advisory Committee's Preliminary Draft acknowledges, Rule 45 service issues are rare under the current framework, and the existing rule generally functions as intended.[1]

Personal Service as the Gold Standard for Subpoena Service

Rule 45 subpoenas uniquely compel action from non-parties and carry the potential for contempt sanctions. For that reason, confidence in actual receipt by the intended individual is essential. Personal, in-hand service remains the only method that consistently confirms delivery to the correct person.

Professional process servers verify identity, correct outdated or inaccurate addresses, document service attempts, and mitigate common real-world failures associated with mobility, shared residences, and evasive behavior. These safeguards are not replicated by mail delivery, electronic transmission, or commercial carriers.

Risks Introduced by Expanded Alternative Service Methods

The proposed amendments would expressly permit service by mail, commercial carriers, email, and other court-approved means. While these methods may confirm delivery to an address, inbox, or device, they do not reliably confirm receipt by the intended individual.

In practice, alternative service methods frequently result in delivery to shared mailrooms, building staff, outdated addresses, inactive email accounts, or unintended recipients. Signature confirmation alone does not establish identity, awareness, or understanding of

the subpoena's obligations. These gaps increase the likelihood of incomplete or ineffective service.

Increased Litigation Risk and Court Burden

Rather than reducing disputes, the proposed amendments are likely to increase them. Courts may face additional motions to quash, challenges to service validity, and disputes over notice after compliance deadlines have passed.

The Advisory Committee's Preliminary Draft identifies only a small number of cases involving service issues, and those cases largely involve evasive conduct by subpoena recipients rather than deficiencies in the current rule. This limited record does not demonstrate a systemic problem warranting a fundamental shift away from personal service.[12]

Broader Implications Beyond Federal Court

Approximately thirty-five states model their civil procedure rules on the Federal Rules of Civil Procedure. Although state courts do not automatically adopt federal amendments, changes to the Federal Rules frequently influence state-level rulemaking and judicial interpretation over time.

Weakening the federal standard for subpoena service risks a second-order effect in which state courts gradually adopt similar approaches, resulting in a nationwide erosion of reliable service standards and increased uncertainty in subpoena enforcement.

Recommended Approach

If amendments to Rule 45 proceed, personal service should remain the preferred and presumptive method for subpoenas compelling testimony or production. Alternative service methods should be permitted only after reasonable, documented efforts at personal service have been made, or where the court is satisfied that actual receipt by the intended recipient can be reliably demonstrated.

Any modernization of Rule 45 should prioritize certainty, due process, and confidence in service outcomes over administrative convenience.

Conclusion

The current Rule 45 framework provides courts and litigants with a high degree of confidence that subpoenas reach their intended recipients. The proposed amendments risk undermining that confidence, increasing disputes, and burdening courts with avoidable service challenges.

For these reasons, ServeManager respectfully urges the Advisory Committee to reconsider the proposed expansion of alternative service methods and to preserve personal service as the preferred standard for federal subpoenas.

References

[1] Advisory Committee on Civil Rules, Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure (August 2025).
[2] Lawyers' Committee for Civil Justice, Public Comment on Rule 45 Service of Subpoenas (Oct. 10, 2025).

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Comment from HOLE IN ONE PROCESS FROM KEMP, TEXAS

Posted by the **United States Courts** on Jan 26, 2026

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Public Comment Submission on Proposed Amendments to FRCP Rule 45 FROM SCOTT POMEROY WITH HOLE IN ONE PROCESS FROM KEMP TEXAS

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mku-7fg4-ktz8

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *SCOTT POMEROY / HOLE IN ONE PROCESS*
Date: JANUARY 25, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

SCOTT POMEROY / HOLE IN ONE PROCESS
P.O. BOX 144, KEMP, TEXAS 75143
CONTACT@HOLEINONEPROCESS.COM

JANUARY 25, 2026

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Comment from Paine, Jennifer

Posted by the **United States Courts** on Jan 26, 2026

Comment

This type of service is far fetched ! The majority of people hardly even check their mail! Those who do and can see who the sender is definitely aren't going to willingly go pick it up from the postal service! An in person process server is definitely the most proficient way to conduct this business! If it isn't broke don't fix it !

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USC-RULES-CV-2025-0004-0141

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Comment from Anonymous

Posted by the **United States Courts** on Jan 26, 2026

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To Whom It May Concern,

I strongly oppose the proposed amendments to Federal Rule of Civil Procedure 45 authorizing non-personal methods of subpoena service, including U.S. Mail, commercial carriers, and other court-approved alternatives.

These amendments represent a significant departure from longstanding federal practice and would materially reduce the demand for traditional in-hand subpoena service. As a result, they threaten substantial revenue losses for thousands of professional process servers, particularly independent servers and small agencies that rely on personal service as their core business.

By formally endorsing alternative service methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has reliably supported the federal judiciary for decades. Moreover, these changes introduce systemic risks that may weaken the reliability, accountability, and enforceability of federal subpoenas.

While some courts have permitted alternative service on a limited basis, codifying these methods at the federal level will accelerate the erosion of personal service and impose disproportionate harm on small businesses without demonstrating a corresponding benefit to the justice system.

For these reasons, I urge the Committee to reject or substantially revise the proposed amendments.

Respectfully submitted,
A Professional Process Server and Small Business Owner

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Comment ID

USC-RULES-CV-2025-0004-0142

Tracking Number

mkv-czd8-i9jz

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Comment from Anonymous

Posted by the **United States Courts** on Jan 26, 2026

Comment

I oppose the proposed amendments to Federal Rule of Civil Procedure 45 permitting non-personal service of subpoenas. These changes undermine due process and weaken subpoena enforcement. Personal service provides clear proof of notice and accountability. Mail and commercial delivery increase the risk of non-receipt and disputed service, leading to enforcement failures, delays, and increased litigation. The amendments would also materially reduce the need for in-hand service, causing significant economic harm to thousands of professional process servers, particularly small and independent businesses. Trading reliability for convenience erodes the integrity of federal subpoenas and offers no demonstrated benefit to the justice system. The proposed amendments should be rejected.

Comment ID
USC-RULES-CV-2025-0004-0143

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Comment from Magna Legal Services

Posted by the **United States Courts** on Jan 28, 2026

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Public Comment on Proposed Amendments to FRCP 45

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mkv-fkxx-jerq

Comment Details | **Submitter Info**

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Public Comment on Proposed Amendments to Federal Rule of Civil Procedure 45

Submitted by
Jeremiah Jones
Vice President of Service of Process
Magna Legal Services

Introduction

I appreciate the opportunity to provide comment on the proposed amendments to Federal Rule of Civil Procedure 45. Magna Legal Services provides nationwide service of process and legal support services, working daily with law firms, courts, and non party witnesses across a wide range of jurisdictions. Our perspective is grounded in the practical realities of ensuring reliable notice and defensible service in real world conditions.

While modernization of procedural rules is important, any expansion of permitted service methods should be carefully evaluated to ensure it does not unintentionally reduce clarity, reliability, or confidence in how subpoenas are served and received.

Reliability and Accountability in Subpoena Service

Subpoenas impose serious obligations on non parties, including requirements to appear, produce records, or otherwise respond under potential penalty. For that reason, service of a subpoena is not merely administrative. It is the point at which notice, accountability, and enforceability intersect.

Personal service remains the most reliable method for confirming that a subpoena has been served on the intended recipient. It provides clear documentation, verification of service on the correct individual, and a defensible record if service is later challenged. These attributes are not theoretical. These factors often determine whether a subpoena is complied with promptly or instead becomes the subject of disputes, motions, and avoidable delay.

Concerns with Expanded Alternative Methods

The proposed amendments contemplate broader use of alternative service methods such as mail or electronic service. While these methods may be appropriate in limited circumstances, treating them as equivalent to personal service risks introducing uncertainty rather than reducing disputes.

In practice, proof that a subpoena was sent or transmitted to an address or account is not the same as proof that it was actually served on, received by, and understood by the intended person. Questions surrounding authority, outdated contact information, shared access points, or technical failures are common sources of conflict when service is not personally effected.

Expanding these methods without clear guardrails may shift disputes from the front end of service to later stages of litigation, increasing motions to quash, enforcement proceedings, and uncertainty for non parties.

Operational and Practical Considerations

Professional process servers routinely address challenges that indirect or automated methods cannot identify, such as verifying identity, confirming current location or occupancy, and recognizing when service attempts are likely to fail before they do. These efforts often prevent disputes by resolving issues at the outset rather than after a subpoena is contested.

Any rule change should account for the reality that flexibility in service methods, while convenient, may also increase the burden on courts and litigants to resolve disagreements over whether service was sufficient.

Recommendations
From a service of process perspective, Magna respectfully suggests that:

- Personal service remain the preferred method for subpoenas that compel appearance or testimony.
- Alternative methods be permitted where appropriate, but only with clear standards that emphasize reliability and actual notice.
- The rule continue to prioritize clarity and enforceability over convenience alone.

Conclusion
The existing framework for subpoena service has functioned effectively by emphasizing accountability, reliability, and clear proof of notice. Any amendments to Rule 45 should preserve these core principles while addressing modern needs in a measured and careful way. Ensuring that non parties receive clear, verifiable notice ultimately benefits courts, litigants, and witnesses alike.

Respectfully submitted,



Jeremiah Jones
Vice President of Service of Process
Magna Legal Services

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Comment from Vanguard Global Solutions, LLC

Posted by the **United States Courts** on Jan 28, 2026

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DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45 RDB

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Comment from Lone Palm Process, LLC

Posted by the **United States Courts** on Jan 28, 2026

Comment

I appreciate the opportunity to respond to this proposed Amendment and would like to say that I am greatly opposed to it. Subpoenas are not currently served by U.S. mail because they implicate due process requirements and a reliable proof of service must be submitted to the court. A subpoena delivered by U.S. mail may subject the recipient to sanctions or contempt for noncompliance. It is crucial that subpoenas be served correctly to the individual or authorized agent and that service can be verified through a sworn return of service. U.S. mail cannot provide the same level of assurance. A process server Identifies the name of the individual who accepted service, the date and time of service and a description of the individual who accepted service. A process server can take the stand in court if needed to swear a subpoena was served and even be able to point the individual out in court. A mail carrier cannot do that. As a result of this alternate method of service, it increases the risk of disputes regarding receipt, it increases the motions to quash and it challenges to enforceability. It is crucial from a due process standpoint, personal service protects the court and recipient by creating a clear enforceable record that notice was properly given. It would also have negative financial impact on individual process servers and small businesses.

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Comment ID

USC-RULES-CV-2025-0004-0146

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Comment from Lickety Split, LLC dba Lickety Split Process Service

Posted by the **United States Courts** on Jan 28, 2026

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Comment ID
USC-RULES-CV-2025-0004-0147

Tracking Number
mkv-pvwb-dhds

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *Tracy Wetsch, Lickety Split Process Service*
Date: *01/26/2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *Lickety Split Process Service* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server’s role in the justice system**, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Tracy Wetsch
Lickety Split Process Service
1901 Cornwall Avenue, #416
Bellingham, WA 98225
Phone: (360) 671-4822
E-mail: tracy@licketysplitps.com

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Comment from Central Coast Justice

Posted by the **United States Courts** on Jan 28, 2026

Comment

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners. A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rule making, and jeopardize the very system of personal service that safeguards litigants' rights nationwide. I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Comment ID
USC-RULES-CV-2025-0004-0148

Tracking Number
mkw-vl34-15bd

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Received Date
Jan 27, 2026

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Comment from ALMA

Posted by the **United States Courts** on Jan 28, 2026

Comment

I'm opposed to the proposed amendment to FRCP Rule 45. The two major reasons why I'm opposed: 1) The threat to the livelihoods of thousands of small business owners and 2) Mail-based systems are flawed and actually impede progress in courts. It's going to add an extra burden to courts once mailed services kick back and disputes arise.

Attachments 1

ALMA_FRCP Rule 45_DLS Public Comment Submission_1.27.26

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0149/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0149

Tracking Number
mkx-1o5w-iq1u

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Alex Grabowski / ALMA
Date: 01.27.26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *ALMA / Legal Services Agency* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Alex Grabowski
Owner, ALMA
410-317-4477

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Comment from Legal Advocate Services, Inc

Posted by the **United States Courts** on Jan 28, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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See attached file(s)

Attachments 1

Submission on_Proposed_Amendments_to_FRCP_Rule_45_

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0150/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0150

Tracking Number
mkx-31eu-wybm

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
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3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Capital Solutions Legal Services

Posted by the **United States Courts** on Jan 28, 2026

Comment

As a professional process server who personally serves hundreds of subpoenas across a wide socio-economic spectrum of witnesses annually, I cannot begin to express the damage these proposed federal rules changes will cause and weaken the integrity of the judicial system.

While serving witness subpoenas one of the most common questions I often field is “What happens if I don’t show up?” I relate to them from my experiences, without providing any legal advice, the possible consequences that ignoring a court command of the subpoena can bring. Such consequences as court ordered contempt, sanctions and even possible detainment may occur to those who fail to abide the command of the subpoena.

Reliable personal service of subpoena by a trained process service professional ensures recipients will receive proper legal notification as well as full understanding of the gravity of the court’s command which is critical to the judicial process. A mailed or commercial carrier delivered subpoena no matter how worded will not instill near that gravity.

Expanding mail and alternative service creates risks that outweigh convenience. This proposed expansion may look good on paper however “conformation of receipt” is ambiguous and undefined. This method of service without first the due diligence performed by a professional process server would raise significant concerns over the validity of the last known address mailed, but also who accepted delivery at said address and even if the intended recipient received the intended legal notification. This proposed expansion will reduce reliability, increase disputes, and weaken due process, thereby inviting further litigation and related court expense.

Attorneys for opposing parties would now have grounds available to question the validity of the expanded service which would then weigh the courts down with disputes thus causing undue cost and burdens. Professional process servers provide accountability that mail and commercial carrier delivery cannot provide thus eliminating any such litigation.

Give Feedback

Federal rules often influence state rules. As such this proposal sets a dangerous precedent. Any expansion of service methods should be narrow, exceptional, and court supervised. Convenience should never outweigh due process when court-ordered compliance and sanctions are at stake. Professional process servers exist to protect the integrity of the judicial system as we are neutral and guarantee document service is performed properly and without question.

Comment ID

USC-RULES-CV-2025-0004-0151

Tracking Number

mkx-4wjr-4ag6

Comment Details | **Submitter Info**

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Jan 27, 2026

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Comment from Faithful Path Investigations

Posted by the **United States Courts** on Jan 28, 2026

Comment

Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45
Submitted by: Faithful Path Investigations
Role: Licensed Private Investigation & Professional Process Serving Agency
Average Caseload: 1,000+ cases annually
Verified Success Rate: 97%

Dear Members of the Committee,

I submit this public comment on behalf of Faithful Path Investigations, a professional Private Investigation and Process Serving agency executing more than 1,000 cases per year with a documented 97% success rate. Our work includes subpoenas, civil process, and enforcement matters across both urban and rural jurisdictions.

Based on direct, hands-on operational experience—not theory, automation models, or vendor assumptions—I state plainly that the proposed amendments to Federal Rule of Civil Procedure 45 create serious and foreseeable risks to due process, subpoena enforceability, and the integrity of court proceedings.

I. Executive Summary

The proposed authorization of non-personal service methods such as U.S. Mail, commercial carriers, or other alternatives represents a fundamental departure from proven service standards. From the perspective of professionals who locate parties, verify residency, document evasion, and testify when service is challenged, these amendments will:

Weaken subpoena reliability

Increase disputes over notice and compliance

Give Feedback

Shift risk from litigants to courts

Undermine long-standing due-process safeguards

Destabilize a profession relied upon daily by the judiciary

This is not modernization. It is procedural dilution.

II. Real-World Service Reality

In actual practice, a significant percentage of subpoena addresses are incorrect—not marginally, but materially. Addresses are often outdated, tied to former residences, mail drops, shared households, or intentionally misleading due to avoidance. In many cases, Faithful Path Investigations must first locate the subject before service can even occur. Frequently, an address provided by counsel is wrong by only a few days, but those few days matter.

Mail service cannot detect this.
Professional process servers do.

III. USPS Delivery Reality and Court Risk

It is well documented that U.S. Mail delivery issues—misdelivery, delayed forwarding, unsecured mail locations, and third-party acceptance—can take months or even years to resolve. Carrier confirmation may show delivery, but it does not confirm delivery to the correct individual.

If courts rely on tracking numbers instead of verified personal delivery, the consequences are predictable: motions to quash, claims of lack of notice, delayed proceedings, enforcement challenges, and appeals based on defective service. This risk will not fall on mail carriers or vendors. It will fall on judges.

IV. Due Process Over Economics

While the economic impact on professional process servers—particularly small, independent agencies—is substantial, the greater concern is systemic. Personal service is not a legacy practice; it is a functional safeguard. It ensures the correct individual was contacted, service occurred at a valid location, attempts are documented, affidavits are defensible, and testimony is available if challenged.

Mail cannot testify.
Tracking numbers cannot testify.
Automation cannot testify.

V. Spillover Into State Courts

This amendment will not remain confined to federal practice. States that model their rules on the FRCP will follow. Judges in non-FRCP states will treat the rule as persuasive authority. Law firms and vendors will normalize mail-based workflows and push them into state courts. The result will be reduced personal service, increased disputes, less accountability, greater court burden, and erosion of procedural confidence. Once lowered federally, this standard will not be raised again.

Give Feedback

VI. Request for Reconsideration

Faithful Path Investigations respectfully urges the Committee to reconsider or substantially revise the proposed amendments; preserve personal service as the presumptive standard; require specific judicial findings before authorizing non-personal service; conduct a formal economic and procedural impact analysis; and solicit testimony from active, high-volume professional process servers.

VII. Conclusion

Rule 45 governs compulsory legal notice—one of the most serious actions a court can impose. Replacing verified human service with unverified delivery systems is not efficiency; it is risk transfer. From the perspective of professionals who locate hard-to-find subjects and defend service under oath, these amendments will weaken—not strengthen—the federal civil justice system.

I respectfully urge reconsideration before institutionalizing a standard that sacrifices reliability, accountability, and due process for convenience.

Respectfully submitted,

James Cassaday
President
Faithful Path Investigations

877-331-4374
jcassaday@faithfulpathinvestigations.com
Missouri Private Investigation Agency License No.: 2025036830

Comment ID
USC-RULES-CV-2025-0004-0152

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mky-f1ga-k620

Comment Details | Submitter Info

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Jan 28, 2026

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Comment from Scott, Randy

Posted by the **United States Courts** on Jan 28, 2026

Comment

Public Comment Submission on Proposed Amendments to FRCP Rule 45
Submitted by: Randy Allen Scott
Date: January 28, 2026

To: Advisory Committee on Civil Rules
Administrative Office of the United States Courts

Re: Support for Proposed Amendments to Federal Rule of Civil Procedure 45 – Modernizing Subpoena Service Methods

Dear Members of the Committee,
I write in support of the proposed amendments to Rule 45(b)(1) that clarify and expand permissible methods of subpoena service, including delivery via U.S. Mail, commercial carriers, and other court-approved alternatives to traditional in-hand personal delivery.

The federal judiciary's primary obligation is to ensure the efficient, reliable, and fair administration of justice. Rulemaking should prioritize these core procedural values over the economic interests or business models of any particular service providers or vendors. Judicial operations must not be shaped—or constrained—by concerns for the revenue streams or market positions of private actors in the process-serving industry. The courts exist to serve litigants and the public, not to protect or subsidize specific professions against technological or procedural evolution.
Modern technologies and delivery systems now offer far more convincing and verifiable evidence of notice and receipt than financially interested personal service operatives can typically provide. These include:
GPS-tracked delivery with timestamped location data and proof-of-presence verification,
Electronic logging and chain-of-custody records from certified carriers,
Signature requirements (where applicable) combined with photographic or biometric confirmation in some systems,

Give Feedback

Real-time tracking portals that generate immutable audit trails, and
Secure mail protocols with delivery confirmation that exceed the evidentiary value of a process server's affidavit alone.
These tools reduce disputes over service, minimize opportunities for evasion claims, and enhance transparency for courts reviewing compliance. They align with broader trends in legal process modernization, where reliability stems from objective, auditable data rather than subjective human accounts that may carry inherent bias or limitations.
Permitting these alternative methods as presumptively valid (subject to court oversight where needed) would promote efficiency, reduce unnecessary costs to litigants, and strengthen due process by ensuring more consistent and documented notice—without sacrificing procedural safeguards.
I respectfully urge the Committee to adopt the proposed amendments in substance, preserving judicial flexibility while embracing advancements that better serve the goals of prompt, reliable, and fair subpoena enforcement.
Thank you for considering this comment and for your ongoing work to refine the Federal Rules of Civil Procedure.
Sincerely,
Randy Allen Scott

Comment ID

USC-RULES-CV-2025-0004-0153

Tracking Number

mky-gcdm-tzaa

Comment Details | **Submitter Info**

Received Date

Jan 28, 2026

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PUBLIC SUBMISSION

Comment from Committee on Federal Courts, Litigation Section, California Lawyers Association

Posted by the **United States Courts** on Jan 29, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See attached file(s)

Attachments 1

FINAL - CLA Federal Courts Committee - Comment Letter on Proposed Revisions to Federal Rules of Civil Procedure and Evidence

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0154/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0154

Tracking Number
mkz-tez2-zvzc

TO: Committee on Rules of Practice and Procedure of the Judicial Conference of the United States

FROM: Committee on Federal Courts, Litigation Section, California Lawyers Association

DATE: January 29, 2026

RE: Comments on Revised Civil Rule 45 on Subpoenas; Proposed New Evidence Rule 707 on Machine-Generated Evidence

The Committee on Federal Courts of the California Lawyers Association's Litigation Section ("Committee") respectfully submits the following in response to the Committee on Rules of Practice and Procedure's Request for Comments on Proposed Amendments to Federal Rules and Forms.

Established when the State Bar of California was restructured in 2018, the California Lawyers Association ("CLA") is a nonprofit 501(c)(6) organization dedicated to the professional advancement of attorneys practicing law in California. CLA's mission is promoting excellence, diversity, and inclusion in the legal profession and fairness in the administration of justice and the rule of law. Our membership represents the diversity of California's legal community and the various areas of law practiced throughout the state. In particular, the Committee on Federal Courts consists of members who practice extensively in federal courts, in civil or criminal matters.

Comments on the Proposed Revisions to Civil Rule 45

The proposed addition to Civil Rule 45, specifically subparagraph (b)(1)(A)(iii) regarding service of subpoenas, would allow service, in part, by "sending a copy to the person's last known address by a method of United States mail or commercial-carrier delivery, if the selected method provides confirmation of actual receipt."

The Committee respectfully submits that proposed Rule 45(b)(1)(A)(iii) should be further amended or removed. As written, the proposed revision does not include sufficient safeguards to reasonably ensure notice to third-party targets of subpoenas in the following respects:

- The proposed revision does not state and is ambiguous regarding who may properly accept service when the subpoena is sent with actual confirmation of receipt to the last known address. If it is intended that any person of suitable age and discretion who resides at

such last known address, language to that effect should be added to the proposed revision. Alternatively, the proposed revision should state if confirmation of actual receipt must be made by any specific person. For example, California Government Code § 12963.1(b) states, in part, that "[a] subpoena shall be served by delivering a copy of the subpoena to the individual named on the subpoena or to any person who would be eligible to receive service of summons on behalf of the individual or organization named on the subpoena."

- The proposed revision also does not state and is vague regarding what constitutes the "last known address." Safeguards are needed to increase the likelihood that the subpoenaed party will receive notice, such as by conforming service requirements under Rule 45 to those stated in Rule 4.

Comments on Proposed Evidence Rule 707

Proposed Evidence Rule 707 would allow trial courts to admit "machine-generated evidence" "offered without an expert witness" "only if it satisfies the requirements of Rule 702(a)-(d)."

The Committee believes that data created by machines, including artificial-intelligence (AI), should be addressed in the federal evidence rules, and that the proposed rule will generate a robust conversation about the extent to which such data should be admitted in litigation. At this juncture, the Committee believes that further study is necessary. The Committee, therefore, respectfully submits the following points for consideration and discussion:

- The proposed rule directly incorporates the requirements of Rule 702, pertaining to expert witnesses. As written, the draft rule does not specify any categories of information on which a proponent of machine-generated evidence may satisfy the requirements of Rule 702 under Rule 707, or who may be an appropriate witness to testify regarding such information. Would a lay witness offering "machine-generated evidence" have to satisfy the requirements of Rule 702, or the "machine-generated evidence"? Is Rule 702 intended to apply to the custodian of records for electronic documents under Evidence Rule 903?

One possible approach for resolving these questions is to formulate new requirements for admissibility and incorporate them into a new Rule 707, rather than have Rule 707 refer back to Rule 702. For example, AI-generated data might ordinarily be inadmissible given its black-box characteristics. Conversely, other forms of computer-generated evidence, such as data generated using widely-accepted statistical software, could be admissible provided that it is offered by a witness who (1) is knowledgeable about the software; (2) can identify the data the software used to create the outputs, and (3) other criteria indicating reliability. The witness could therefore be cross-examined on the machine-generated evidence.

- The proposed rule states that it does not apply to the "output of simple scientific instruments," which as explained by the notes accompanying the rule includes basic instruments such as calculators or thermometers. However, explicitly defining what "machine-generated evidence" means may avoid confusion in this regard. The proposed rule appears to be aimed at data (as opposed to, for example, visual or audio recordings), but the proposed rule does not

specify. A next iteration of the draft rule might, for example, limit "machine generated evidence" to evidence that reflects input of *data*.

***

The Committee on Federal Courts thanks the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States for the opportunity to provide these comments.

CONTACTS

Committee on Federal Courts, Litigation Section, California Lawyers Association

Christina McCall, Chair
Christinamccallesq@gmail.com

Michael Huggins, Vice-Chair
Meyers Nave
mhuggins@meyersnave.com

California Lawyers Association

Saul Bercovitch
Chief Governmental Affairs Officer
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saul.bercovitch@calawyers.org

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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Jan 29, 2026

Comment

This shift would hurt small process servers, reduce reliable notice, and weaken due-process protections. Mail-based service increases risks of missed notice due to incorrect addresses, shared mailrooms, and delivery records that don't confirm who actually received the subpoena. We urge the Committee to preserve personal service as the default and fully assess the economic and procedural impact before adopting any changes.

Personal service works—let's keep it the standard.

Comment ID
USC-RULES-CV-2025-0004-0155

Tracking Number
mky-qu4g-evne

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Jan 28, 2026

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PUBLIC SUBMISSION

Comment from Best Legal Services

Posted by the **United States Courts** on Jan 29, 2026

Comment

I can see where this will allow the recipient the argument that they never received the subpoena and that an unknown
family member or child opened the email or it was discarded with the mail. Private process service will provide the court
with a date, time, name and description as well as the relationship of the person served.

Comment ID
USC-RULES-CV-2025-0004-0156

Tracking Number
mkz-jsq1-ceo9

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PUBLIC SUBMISSION

Comment from National Association of Professional Process Servers

Posted by the **United States Courts** on Jan 30, 2026

Comment

Re: Proposed Amendments to FRCP 45

To Whom It May Concern:

I am the President of the National Association of Professional Process Servers (NAPPS). With nearly 3,000 members across the country, we are the largest non-profit trade association for process servers in the United States.

NAPPS opposes this proposed amendment. Our members strive to provide professional, reliable service to the legal community and the public. Allowing subpoenas to be delivered to any person on behalf of the named party, of virtually any age at a given address, simply by having the person sign for the delivery, fails to ensure the named party has proper notice. Not only does it fail to ensure the person to be served receives proper notice, but the ramification of that failure also moves upward to the parties involved in the action. The parties in the action must be able to rely on the methods of service authorized and, in this instance, they cannot. Furthermore, it diminishes the judicial responsibility of the trained process server to provide the constitutional right of due process and essentially equates them down to a level of a mere delivery service.

Adequate notice is not a mere technicality; it is essential to transparency, accountability, and public trust. When notice provisions are weakened, the risk of inadvertent noncompliance, unnecessary disputes, and avoidable harm increases. In the long term, this may lead to greater administrative inefficiency and legal challenges, undermining the very goals the amendment seeks to advance.

I respectfully urge all those involved to deny the proposed amended.

Give Feedback

Sincerely,

Jillina Kwiatkowski
President, NAPPS

Comment ID

USC-RULES-CV-2025-0004-0157

Tracking Number

mkz-zskp-9e62

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Comment from Byham, Jack

Posted by the **United States Courts** on Jan 30, 2026

Comment

I respectfully submit the following comments regarding the proposed amendment to Federal Rule of Civil Procedure 45 governing service of subpoenas.
I appreciate the Advisory Committee's efforts to modernize and clarify procedural rules in order to promote efficiency, reduce cost, and eliminate unnecessary ambiguity. However, I am concerned that the proposed changes to Rule 45(b) risk undermining important procedural safeguards, weakening reliability in proof of service, and unintentionally creating downstream burdens for courts and litigants.

The proposed expansion of acceptable service methods — particularly service by mail or commercial carrier and court-authorized alternative methods — represents a significant departure from the long-standing emphasis on personal service. While the Committee correctly emphasizes that the fundamental goal of service is notice, personal service has historically functioned not merely as a delivery mechanism but as a critical safeguard of procedural integrity. It ensures accountability, creates reliable proof of service, minimizes disputes, and protects the due process rights of subpoena recipients.

In practice, expanding service methods will likely increase contested claims regarding receipt, timing, and adequacy of service. These disputes may shift burdens onto courts through increased motions to quash, motions to compel, and collateral litigation regarding service sufficiency. What is gained in theoretical efficiency may be lost in increased procedural conflict and judicial oversight.

Moreover, professional process servers play a valuable institutional role as neutral, trained officers of the court. Their involvement promotes accuracy, professionalism, and public trust in the judicial process. Weakening the centrality of personal service risks degrading service standards and reducing the reliability of enforcement, particularly in contentious or high-stakes litigation contexts.

The proposed rule also creates structural incentives to minimize professional service in favor of informal or minimally supervised alternatives. Over time, this may lead to uneven application, reduced compliance, and greater procedural uncertainty — outcomes contrary to the goals of uniformity and fairness that the Federal

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Rules seek to promote.

For these reasons, I urge the Committee to reconsider whether the proposed expansion of service methods sufficiently protects procedural reliability, due process, and judicial efficiency. At minimum, I respectfully suggest that stronger safeguards be incorporated to ensure verifiable receipt, clearer evidentiary standards for proof of service, and continued recognition of the important role of professional service in preserving the integrity of the judicial process.

Thank you for the opportunity to submit these comments and for your continued work on improving the Federal Rules of Civil Procedure.

Respectfully submitted,

Jack Byham
PSC - 24077

Comment ID

USC-RULES-CV-2025-0004-0158

Tracking Number

ml0-12vz-d3fe

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Comment from Dynamic Legal Services

Posted by the **United States Courts** on Jan 30, 2026

Comment

We opposed the amendments to FRCP Rule 45. Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.
Mail-based systems present well-documented risks:
• outdated or incorrect addresses,
• mail forwarding issues,
• shared or unsecured mailrooms, and
• carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient.
These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.
A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

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Comment ID
USC-RULES-CV-2025-0004-0159

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Comment from Process Server Of Downtown Sacramento

Posted by the **United States Courts** on Jan 30, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

I write to express my strong opposition to the proposed amendments to Federal Rule of Civil Procedure 45, particularly the provisions that would expand subpoena service to include service by email or mail. I am the CEO of Process Server of Downtown Sacramento, a licensed California private investigator/Process server, and a member of the National Association of Professional Process Servers (NAPPS). Through this work, I have extensive, firsthand experience with the practical realities and legal requirements of serving process and subpoenas.

Attachments 1

Opposition to Prop 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0160/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0160

Tracking Number

ml0-71cs-phsa

January 29, 2026

Committee on Rules of Practice and Procedure

Judicial Conference of the United States

Thurgood Marshall Federal Judiciary Building

Re: Opposition to Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee:

I write to express my strong opposition to the proposed amendments to Federal Rule of Civil Procedure 45, particularly the provisions that would expand subpoena service to include service by email or mail. I am the CEO of Process Server of Downtown Sacramento, a licensed California private investigator/Process server, and a member of the National Association of Professional Process Servers (NAPPS). Through this work, I have extensive, firsthand experience with the practical realities and legal requirements of serving process and subpoenas.

While I understand the Committee's intent to modernize service methods and reduce litigation over procedural issues, I believe these proposed changes would create more problems than they resolve. Expanding service in this manner would fundamentally undermine the reliability, accountability, and integrity of the subpoena process.

First and foremost, allowing service by email or regular mail creates unacceptable uncertainty regarding whether service was actually effected, not to mention the ongoing issues with defendants using a PO Box, Unlike personal service or even certified mail with return receipt,

standard email and mail provide no reliable confirmation that the recipient actually received the subpoena. In my professional experience serving legal documents, I have witnessed countless instances where email addresses change frequently, messages are caught by spam filters, and individuals routinely ignore or overlook emails from unfamiliar senders. Similarly, regular mail can be mis-delivered, lost, or simply discarded without the sender's knowledge. This uncertainty will inevitably lead to increased litigation over whether proper service occurred—precisely the opposite of the Committee's stated goal.

Second, the proposed amendments fail to account for the serious nature of subpoenas and the potential consequences of non-compliance. A subpoena is a court order that carries the threat of contempt sanctions. Given these significant consequences, recipients deserve the certainty and formality that comes with traditional service methods. Personal service ensures that the individual actually receives the document and understands its legal significance. Email and mail service, by contrast, can easily be overlooked or misunderstood, potentially leading to inadvertent non-compliance and unjust sanctions.

Third, these proposed changes will disproportionately burden non-parties who are subpoenaed. Unlike parties to litigation who have counsel and expect legal correspondence, non-parties may have no connection to the underlying dispute and no reason to anticipate receiving legal process. In my day-to-day work, I regularly serve subpoenas on small business owners, medical

professionals, and ordinary citizens. These individuals deserve the notice and formality that traditional service methods provide. Allowing service by email or mail makes it too easy for litigants to impose obligations on unwitting third parties who may not even realize they have been served, leading to potential contempt citations against innocent parties who never received actual notice.

Additionally, the proposed rule changes raise significant concerns about authentication and proof of service. In an era of widespread email spoofing and phishing attacks, recipients have legitimate reasons to question whether an email purporting to be a subpoena is genuine. This uncertainty could lead to either non-compliance by recipients who doubt the legitimacy of electronic service, or compliance with fraudulent subpoenas. Either scenario undermines the integrity of the judicial process.

I recognize that the current rule's ambiguity regarding what constitutes proper service has created some confusion in the courts. However, the solution is not to expand service methods in ways that sacrifice reliability and certainty. Instead, I urge the Committee to clarify the existing rule by explicitly requiring either personal service or certified mail with return receipt for subpoenas. This approach would provide the clarity courts need while maintaining the reliability and formality that the subpoena process demands.

The proposed amendments appear to prioritize convenience for litigants over fairness to non-parties and reliability of the judicial process. While modernization of court procedures is important, it should not come at the expense of fundamental due process protections. Email and regular mail are simply too unreliable to serve as acceptable methods for delivering court orders that carry serious legal consequences. Furthermore, the anticipated increase in disputes over whether proper service occurred will impose significant costs on the courts, litigants, and non-parties—costs that would far exceed any savings from simplified service methods.

For these reasons, I respectfully urge the Committee to withdraw the proposed amendments to Rule 45 that would permit service of subpoenas by email or mail. If the Committee believes clarification of the rule is necessary, I encourage instead amendments that would specify traditional, reliable service methods such as personal service or certified mail with return receipt.

Thank you for your consideration of these concerns.

Respectfully submitted,

_____

[Your Name]
NAPPS Member
CEO, Process Server of Downtown Sacramento
https://downtownsacprocessserver.com/

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Comment from MSGPR Ltd Co DBA/MSGLegal

Posted by the **United States Courts** on Jan 30, 2026

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Comment

Brief Summary of Attached Comment

MSG Legal, a small courtroom technology business serving rural East Texas, submits this public comment opposing the proposed amendments to Federal Rule of Civil Procedure 45. As CEO of a small business deeply interconnected with the legal services ecosystem, I write to express serious concerns about the economic impact on professional service providers - particularly in rural communities - and the systemic risks these amendments pose to due process and subpoena reliability.

The proposed amendments authorizing non-personal service methods (U.S. Mail, commercial carriers, and court-approved alternatives) will disproportionately harm rural communities and small businesses while providing modest cost savings primarily to large urban firms. Rural America already operates with limited legal infrastructure; these changes will create permanent "service deserts" by eliminating the economic viability of professional process servers in underserved areas. When personal service capacity disappears from rural markets, it will not return. Additionally, mail-based service introduces significant reliability concerns - outdated addresses, irregular mail delivery, unsecured mailboxes, and inability to verify actual receipt - problems that are amplified in rural contexts where non-standard addresses and infrastructure limitations are common.

Beyond immediate economic impacts, these amendments will cascade into state court systems (35 states model their rules on FRCP), fundamentally alter legal practice norms, and erode procedural safeguards that protect due process. I urge the Committee to reconsider these amendments, preserve personal service as the presumptive standard, conduct comprehensive economic impact assessments including rural contexts, and pilot test any alternatives before nationwide implementation.

Please see the attached PDF for the complete comment with detailed analysis, specific concerns with proposed language, and recommended alternatives.

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Attachments 1

Miller_MSGLegal_FRCP45_Comment_Jan2026

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0161/attachment_1.pdf)

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Lee Allen Miller, CEO
Organization: MSG Legal
Date: January 30, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment as CEO of MSG Legal, a small courtroom technology business serving the legal industry in rural East Texas, to express significant concerns regarding the economic impact on allied legal service providers and the systemic risks these amendments pose to due process, subpoena reliability, and the integrity of civil litigation.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service including U.S. Mail, commercial carrier, and other court-approved alternatives—represent a fundamental departure from established procedural safeguards. By formally endorsing these alternative methods as equivalent to personal service, the revised rule threatens to:

- Materially diminish the reliability and enforceability of federal subpoenas
- Undermine due process protections that personal service has historically provided
- Cause significant economic disruption to professional service industries that support the federal court system, particularly small businesses in rural communities
- Create a cascading effect that will ultimately impact the quality and reliability of evidence gathering in civil litigation

While proponents may argue that some courts already permit alternative methods, the proposed rule would eliminate the procedural preference for personal service that has preserved accountability and reliability in subpoena enforcement. This change risks

destabilizing an ecosystem of professional service providers who have supported the federal judiciary dependably for decades.

II. Industry Context and Economic Impact

MSG Legal operates at the intersection of legal technology and courtroom services in Lufkin, Texas, a rural community that depends on small businesses to support the justice system. While our primary focus is courtroom technology solutions, our business model and client relationships are deeply interconnected with the broader legal services ecosystem, including process servers, court reporters, videographers, and litigation support professionals.

The proposed amendments will create several economic pressures that will be felt most acutely in rural communities like ours:

Direct Impact on Rural Service Providers:

In metropolitan areas, large process service agencies may absorb the shock of reduced federal subpoena work. In rural communities, the impact will be devastating:

- Professional process servers who handle federal subpoenas will experience sharp revenue decline with no alternative markets to absorb the loss
- Small, independent operators and family-owned agencies—which dominate rural markets—will face the most severe financial pressure
- Geographic service areas in rural regions are already economically marginal; loss of federal work may render them completely unviable
- Rural areas lack the population density to support specialized service providers once federal work disappears
- The professional infrastructure that serves rural federal courts may simply cease to exist

Systemic Impact on Legal Service Quality in Rural Markets:

Rural legal services already operate with fewer resources than urban counterparts. The proposed amendments will exacerbate this disparity:

- As experienced process servers exit rural markets, the skill level and reliability of those remaining will diminish
- Institutional knowledge about effective service techniques, challenging service scenarios, and local jurisdictional requirements will be lost

- When personal service is actually required, the professional capacity to provide it may no longer exist in rural areas
- Technology providers like MSG Legal will face reduced demand for tools that support professional service operations, making it harder to maintain our business in rural communities

Business Model Disruption for Small Operations:

Unlike large urban firms with diversified revenue streams, small rural businesses depend heavily on stable, predictable work:

- Federal subpoena work provides revenue stability that supports investment in training, technology, and quality standards
- Loss of this revenue stream will force small service providers to reduce quality investments or cease operations entirely
- The professional certification and continuing education systems that maintain industry standards will become economically unfeasible for rural practitioners
- Insurance and bonding requirements that protect litigants may become impossible to maintain for smaller operators

The Rural Service Desert:

The most troubling long-term consequence is the creation of "service deserts" in rural America:

- Once professional process servers exit rural markets, they will not return
- When personal service is needed in rural areas, there may be no qualified professionals available
- Parties in rural litigation will face longer delays and higher costs to bring in servers from distant urban centers
- The federal court system's ability to function effectively in rural jurisdictions will be compromised

III. Due Process and Reliability Concerns

As a technology provider serving courtrooms and legal proceedings in rural East Texas, MSG Legal has observed firsthand the critical importance of reliable service in maintaining the integrity of the litigation process. Personal service is not merely a procedural

formality—it is a fundamental safeguard that ensures compulsory legal obligations are actually communicated to those who are bound by them.

Documented Risks of Mail-Based Service:

The proposed alternatives introduce multiple failure points that personal service prevents. These risks are significantly amplified in rural settings:

- **Address Accuracy Issues:** Rural addresses are often imprecise or non-standard. P.O. boxes, rural routes, and informal address designations are common. Mail delivery depends entirely on address accuracy, yet rural addresses frequently contain errors that urban-trained mail clerks may not catch.
- **Delivery Confirmation vs. Receipt Confirmation:** Tracking systems confirm that a package was delivered to an address, not that it reached the intended recipient. In rural areas, this distinction is even more critical—packages may be left at the end of long driveways, at unmanned roadside mailboxes, or with neighbors miles away.
- **Shared and Informal Mail Facilities:** Rural areas often lack the formalized mail infrastructure of cities. Shared mailboxes, informal delivery arrangements, and community mail centers create opportunities for misdirection or loss.
- **Mail Forwarding Complications:** Rural residents may maintain multiple addresses—a physical residence, a P.O. box for mail, and possibly a business address. Forwarding services may or may not capture legal mail, depending on which address is used and how forwarding is configured.
- **Verification Impossibility:** Unlike personal service where the server can verify identity and document the actual transfer, mail service provides no mechanism to confirm the recipient's awareness. This problem is compounded in rural areas where recipients may check mail infrequently or may be away for extended periods.

Rural-Specific Service Challenges:

Professional process servers in rural areas navigate challenges that automated mail systems cannot address:

- Properties with no street addresses or with multiple access points
- Recipients who work unusual hours or travel extensively for work
- Agricultural operations where the owner may be anywhere on thousands of acres
- Seasonal residents who are only present part of the year

- Language barriers in areas with immigrant agricultural workers
- Cultural considerations in serving indigenous populations or insular communities

Professional servers use experience and judgment to overcome these challenges. Mail-based service simply fails in these scenarios.

Litigation Consequences:

These reliability gaps will generate predictable litigation complications that will disproportionately burden rural courts and litigants:

- Increased motions to quash based on insufficient notice
- Discovery disputes over whether subpoenas were properly served
- Delays in proceedings while service defects are resolved—particularly burdensome in rural courts with limited docket time
- Sanctions disputes when parties claim non-receipt
- Appellate challenges to judgments based on defective subpoena service

The cumulative effect will be increased litigation costs, longer case timelines, and reduced confidence in the civil justice system's ability to function effectively in rural jurisdictions.

IV. The "Second Wave" — Spillover into State Courts and Industry Practice

While the proposed amendment targets federal procedure, its influence will extend far beyond federal courtrooms. Based on well-established patterns of procedural evolution, we anticipate significant spillover effects that will be particularly damaging to rural legal systems:

State Court Harmonization:

Approximately 35 states model their civil rules on the FRCP. These jurisdictions will face immediate pressure to "harmonize" their subpoena procedures with the federal standard. Texas, where MSG Legal operates, is among those states that look to federal practice for guidance. Even states with independent procedural codes will experience:

- Judicial references to federal practice as persuasive authority
- Practitioner requests to adopt federal methods for consistency
- State rulemaking committees citing federal precedent
- Gradual normalization of mail-based service even without formal rule changes

For rural state courts that already struggle with limited resources, this harmonization will accelerate the loss of reliable service infrastructure.

Practice Pattern Shifts:

Law firms and corporate legal departments will incorporate mail-based workflows into their standard procedures:

- Litigation support software will default to mail service options
- Firm policies will prioritize cost reduction over service reliability
- Training for new attorneys will de-emphasize the importance of personal service
- Vendor management systems will favor automated mail services over professional servers
- Rural recipients will be particularly vulnerable because urban-based firms will default to mail service rather than engaging local process servers

Technology and Automation Pressure:

As a small technology provider in a rural community, MSG Legal recognizes that the proposed amendments will accelerate automation in ways that may ultimately harm service quality while concentrating economic benefits in large urban vendors:

- Large-scale automation vendors based in major cities will offer bulk mail-based subpoena services
- Price competition will drive out small professional operators in rural markets
- Technology solutions will optimize for cost and speed rather than reliability and due process
- The human judgment that professional servers bring to challenging rural service scenarios will be systematically eliminated
- Economic benefits will flow to large corporate vendors rather than local small businesses

Long-Term Industry Erosion in Rural America:

The cumulative effect represents an existential threat to rural legal service infrastructure:

1. Reduced demand for professional service in both federal and state courts
2. Exit of experienced professionals from rural markets

3. Weakening of training, certification, and quality standards in areas that already struggle to maintain them
4. Loss of institutional knowledge about effective service in rural contexts
5. Elimination of the professional infrastructure needed when personal service is actually required
6. Creation of permanent service deserts in rural America

This erosion will be impossible to reverse. Once small rural businesses close, they do not reopen. The professional capacity will be permanently lost.

V. Technology Provider Perspective from a Rural Small Business

As a small courtroom technology provider operating in rural East Texas, MSG Legal views the proposed amendments through the lens of how technology should serve the justice system rather than undermine it—and how policy changes affect small businesses in rural communities.

Technology Should Enhance, Not Replace, Human Accountability:

The appeal of mail-based service is largely technological—tracking systems, electronic confirmations, and automated workflows promise efficiency and cost reduction. However, this technological promise obscures a fundamental weakness: these systems cannot verify that the legal obligation was actually communicated to the recipient in a meaningful way, especially in rural contexts where service is often complex.

Technology works best when it enhances human accountability rather than eliminating it. Professional process servers use technology—GPS tracking, timestamped photographs, electronic affidavits—but the technology supports human judgment and verification. The proposed amendments would replace this human accountability with pure automation that cannot adapt to the complexities of real-world rural service scenarios.

Courtroom Technology Depends on Reliable Foundations:

MSG Legal provides technology solutions for depositions, trials, and hearings throughout East Texas. Our systems are effective only when the foundational procedures—like proper subpoena service—function reliably. If subpoenas become less reliable, the downstream effects cascade:

- Witnesses fail to appear, disrupting scheduled depositions and hearings
- Evidence is unavailable when needed, delaying trials

- Service disputes consume time that should be focused on substantive issues
- Technology investments in courtroom efficiency are undermined by procedural unreliability
- Rural courts, which already have limited docket time, suffer disproportionately from these disruptions

The False Economy of Cost Reduction:

The primary argument for the proposed amendments appears to be cost reduction. However, this creates a false economy, particularly in rural contexts where the costs of failure are magnified:

When subpoenas fail in rural areas, the costs do not disappear—they are transferred and multiplied:

- Additional service attempts become necessary, often requiring travel from distant urban centers
- Motion practice increases, consuming scarce rural court time
- Hearing time is consumed resolving service disputes
- Cases are delayed significantly because rural courts have less frequent docket availability
- The risk of insufficient notice may compromise judgments
- Small businesses bear the cost of these failures disproportionately

Professional service costs may seem higher initially, but they prevent these downstream failures and their associated costs. Moreover, the cost savings flow primarily to large urban firms and corporate litigants, while the increased costs fall on rural courts, small businesses, and individual litigants.

Economic Impact on Rural Small Businesses:

MSG Legal is one business in an ecosystem of small providers that support the rural legal system. When one segment of this ecosystem is destabilized, the effects ripple throughout:

- Process servers who lose federal work may close their businesses
- Court reporters who depend on the same client base experience reduced demand
- Technology providers like MSG Legal lose customers and revenue

- The entire rural legal services infrastructure weakens
- Eventually, the rural justice system itself becomes less capable of serving its community

The Committee should understand that federal rules changes are not abstract policy matters to rural small businesses—they are decisions that determine whether our businesses survive and whether our communities have access to functional legal services.

VI. Specific Concerns with the Proposed Amendment Language

Section (b)(1)(A)(ii) — "Leaving a copy at the person's dwelling or usual place of abode":

This language introduces ambiguity that will be particularly problematic in rural contexts:

- Rural properties often have multiple structures—which constitutes the "dwelling"?
- Who qualifies as a person of "suitable age and discretion" when the only person present is a teenage farmhand or seasonal worker?
- What happens when recipients deny receiving documents left with others?
- How do servers verify that the person receiving the documents actually resides there, especially in areas where multiple families may share property?
- What happens in rural areas with no formal street addresses?
- How does this apply to agricultural operations where workers may live on-site temporarily?

Section (b)(1)(A)(iii) — Mail or commercial carrier service:

This provision is particularly problematic in rural contexts because it equates mail delivery with personal service despite fundamental differences that are amplified in rural areas:

- The requirement for "confirmation of actual receipt" is undefined and may be impossible to verify in areas where mail is delivered to roadside boxes or left at property entrances
- Tracking numbers confirm delivery to an address, but rural addresses may not correspond to actual residences
- No mechanism exists to verify that the recipient understood the nature of the document
- Rural mail delivery is often irregular, with packages left in unsecured locations

- The provision creates an incentive to use the cheapest method rather than the most reliable—advantaging urban cost-cutters over rural service quality

Section (b)(1)(A)(iv) — Court-approved alternative methods:

This catch-all provision essentially eliminates any meaningful standard for subpoena service and will be particularly harmful in rural jurisdictions:

- "Reasonably calculated to give notice" is highly subjective and may be interpreted differently by urban-oriented courts unfamiliar with rural service challenges
- Courts will face pressure to approve increasingly creative alternatives that may not work in rural contexts
- The erosion of standards will accelerate as courts approve methods that would have been unthinkable under traditional practice
- Forum shopping will develop as parties seek jurisdictions with the most permissive service standards
- Rural courts may approve inadequate methods due to lack of familiarity with effective alternatives

Section (b)(1)(B) — 14-day notice requirement:

While the 14-day notice requirement provides some protection, it is insufficient to address the reliability concerns, particularly in rural areas:

- The notice period begins when service is complete, not when the recipient actually receives the documents
- Rural mail delivery delays may mean the recipient receives notice well into the 14-day period
- If service is defective, the 14-day period may be meaningless
- The provision does not address the problem of recipients who never receive notice at all
- Rural recipients who check mail infrequently may miss the deadline despite timely delivery

VII. Proposed Alternatives and Recommendations

Rather than adopting the proposed amendments in their current form, I respectfully urge the Committee to consider the following alternatives that would address legitimate concerns while protecting small businesses and rural communities:

1. Maintain Personal Service as the Presumptive Standard:

Preserve personal service as the primary method for subpoena service, with alternative methods available only when personal service has been attempted and proven impracticable. This approach would:

- Maintain the reliability and accountability of traditional practice
- Provide flexibility for genuinely difficult service situations
- Preserve the professional service infrastructure, especially in rural communities
- Protect due process while allowing for exceptional circumstances
- Support small businesses that depend on federal subpoena work

2. Require Evidentiary Showing for Alternative Service:

If alternative service methods are to be authorized, require the party seeking to use them to make a specific evidentiary showing that:

- Personal service has been attempted without success
- The proposed alternative method is reasonably calculated to actually reach the recipient in their specific circumstances (urban vs. rural, standard address vs. non-standard, etc.)
- The circumstances justify departure from personal service
- Appropriate verification mechanisms tailored to the specific situation will be used

3. Mandate Enhanced Verification for Non-Personal Service:

If mail or commercial carrier service is authorized, require enhanced verification that goes beyond simple tracking confirmations:

- Require signature confirmation from the actual recipient, not just delivery to an address
- Mandate follow-up verification (phone call, email confirmation) that the recipient received and understood the documents

- Require subsequent in-person verification if the recipient fails to comply
- Create consequences for parties who routinely use alternative service without adequate verification
- Establish different verification standards for rural vs. urban service to account for infrastructure differences

4. Conduct Comprehensive Economic Impact Assessment:

Before finalizing any amendments, conduct a thorough economic impact assessment that examines:

- The effect on small businesses and sole proprietors in the process service industry, with specific attention to rural markets
- The impact on legal service costs and litigation timelines in rural jurisdictions
- The projected increase in service-related disputes and motion practice
- The spillover effects on state court systems, particularly in rural areas
- The long-term consequences for professional service capacity in underserved communities
- The distributional effects—who benefits (large firms, urban vendors) and who bears the costs (small businesses, rural communities, individual litigants)

5. Pilot Program with Data Collection:

Rather than implementing nationwide changes immediately, establish a pilot program in selected districts that includes both urban and rural jurisdictions and would:

- Test alternative service methods in controlled conditions across different geographic and demographic contexts
- Collect data on service reliability, dispute rates, and economic impacts in both urban and rural settings
- Evaluate the effectiveness of various verification mechanisms
- Assess impact on small businesses and rural infrastructure
- Provide empirical evidence to inform final rule amendments

6. Create Graduated Standards Based on Geography and Subpoena Type:

Recognize that different contexts present different risk profiles:

- Distinguish between urban service (where alternatives may be more reliable) and rural service (where personal service is often essential)
- Routine document subpoenas to businesses with formal addresses might justify more flexible service methods
- Subpoenas requiring personal testimony should maintain stricter service standards
- Subpoenas to individuals in contested matters should preserve personal service requirements
- Subpoenas in rural jurisdictions should have heightened standards to account for infrastructure limitations

7. Industry Transition Support and Small Business Protection:

If amendments are adopted that will significantly impact the process service industry, provide transition support with particular attention to small businesses and rural communities:

- Phase in implementation over several years to allow industry adaptation
- Create training programs for professionals to develop new service-related skills
- Support development of hybrid service models that combine technology with personal verification
- Establish quality standards for alternative service providers
- Provide technical assistance and resources for small businesses adapting to new requirements
- Consider tax incentives or other support for small service providers maintaining capacity in rural areas

8. Rural Service Infrastructure Protection:

Include specific provisions to protect rural service capacity:

- Recognize that maintaining professional service infrastructure in rural areas serves an important public interest
- Consider requiring courts to maintain lists of qualified process servers in rural areas
- Establish standards that prevent the complete elimination of personal service capacity in underserved areas

- Create incentives for maintaining professional service availability in rural jurisdictions

VIII. Addressing Arguments in Favor of the Amendments

The Committee Note accompanying the proposed amendments presents several arguments in favor of the changes. While I respect these concerns, I believe they can be addressed without fundamentally altering the service standards, and I note that the arguments fail to account for rural contexts:

Argument: "Courts have disagreed about whether the rule requires hand delivery"

Response: The appropriate solution to interpretive disagreement is clarification, not elimination of the standard. If courts are uncertain whether personal service is required, the Committee should clarify that personal service is the presumptive method rather than eliminating it as a requirement. This is especially important for rural courts that may lack the resources to develop sophisticated local practices.

Argument: "Service of a subpoena usually does not present problems—particularly with regard to deposition subpoenas"

Response: This argument proves too much and reflects an urban bias. The fact that personal service typically works well in major metropolitan areas is a reason to preserve it, not abandon it. In rural areas, service frequently does present problems that professional servers successfully navigate. Moreover, "usually" is not a sufficient standard for due process—we must design rules that work reliably in all cases, including difficult rural service scenarios.

Argument: "Uncertainty about what the rule requires has on occasion caused delays and imposed costs"

Response: Uncertainty and costs can be addressed through rule clarification and guidance without abandoning proven methods. The costs of failed service, increased disputes, and potential due process violations under the proposed alternatives are likely to exceed the costs of maintaining clear personal service standards. Moreover, the Committee should consider whose costs are being reduced (large firms, urban litigants) and whose costs are being increased (small businesses, rural courts, individual litigants).

Argument: Alternative methods "are familiar methods that ought easily adapt to the subpoena context"

Response: Familiarity is not equivalent to reliability, and this argument ignores rural contexts entirely. While parties may be familiar with mail service in urban settings, the

subpoena context presents unique challenges that are amplified in rural areas. A subpoena is a compulsory legal obligation backed by enforcement power and potential sanctions. The service method must reliably ensure that the recipient is aware of this obligation—a standard that mail service often cannot meet in rural America.

Argument: "Experience has shown that this method regularly works and is reliable"

Response: This assertion is unsupported by empirical evidence and appears to reflect only urban experience. The Committee Note provides no data demonstrating that mail-based subpoena service is reliable in rural contexts, nor does it address the documented problems with mail delivery, address accuracy, and receipt verification in areas with non-standard addresses and irregular mail service. Before replacing a proven system, the Committee should demand rigorous evidence that the alternative actually works across all geographic and demographic contexts.

Argument: The amendment "simplifies the task" by removing the witness fee requirement

Response: While administrative simplification is worthwhile, it should not be achieved at the cost of due process, reliability, and the economic viability of small businesses. The Committee can simplify fee tendering without fundamentally altering service methods. These are separate issues that should not be conflated.

IX. The Broader Implications for Civil Justice

Beyond the immediate impact on process servers and allied professionals, the proposed amendments reflect a troubling trend toward prioritizing administrative efficiency over procedural reliability and toward policies that benefit large urban entities at the expense of small rural businesses. This trend has broader implications for the civil justice system:

Erosion of Procedural Safeguards:

Personal service requirements, notice provisions, and other procedural rules exist not as bureaucratic obstacles but as safeguards ensuring that the justice system operates fairly. Each time we eliminate a safeguard in the name of efficiency, we weaken the system's ability to protect rights and ensure fair outcomes.

The proposed amendments represent one more step in the gradual erosion of procedural protections. While each individual change may seem reasonable in isolation, the cumulative effect is a justice system that prioritizes speed and cost over accuracy and fairness—and that serves urban corporate interests more effectively than rural individual interests.

Asymmetric Impact:

The proposed amendments will have profoundly asymmetric effects:

- Sophisticated parties with dedicated legal departments based in major cities will adapt quickly, using automated systems to serve large volumes of subpoenas efficiently
- Individual litigants and smaller firms in rural areas will lack the resources to implement these systems effectively
- Recipients in rural areas who miss or ignore improperly served subpoenas will face sanctions, even when the service method was unreliable given their circumstances
- The burden of failed service will fall disproportionately on less sophisticated parties and rural litigants
- Economic benefits will flow to large corporate vendors while economic harm falls on small rural businesses

Urban vs. Rural Divide:

The proposed amendments reflect an urban-centric view of the civil justice system:

- They assume reliable mail delivery, standard addresses, and regular mail checking—assumptions that often do not hold in rural America
- They prioritize cost savings that benefit large urban firms over service reliability that rural communities depend on
- They ignore the economic impact on small rural businesses
- They fail to account for the limited infrastructure and resources in rural jurisdictions
- They essentially write off rural service capacity as expendable in pursuit of urban efficiency

Corporate Efficiency vs. Individual Rights:

There is an underlying tension in these amendments between corporate efficiency and individual rights—a tension that manifests geographically as well as economically:

- Large organizations and their urban counsel may benefit from cheaper, faster service methods
- Individuals and small businesses in rural areas may suffer when they fail to receive adequate notice of legal obligations

- The federal rules should balance efficiency with fairness across all contexts
- The proposed amendments tip that balance too far toward efficiency at the expense of reliability, due process, and rural justice

Technology Cannot Replace Judgment:

MSG Legal is a technology company, yet we recognize that technology has limitations—limitations that are particularly evident in rural contexts:

- Automated systems are excellent at handling routine, predictable tasks in standardized environments
- They fail when confronted with the complexity, ambiguity, and non-standard conditions common in rural service scenarios
- Subpoena service in rural areas frequently involves complexity: difficult-to-locate individuals, unclear address information, recipients who actively avoid service, properties with confusing layouts or no standard addresses, businesses with unclear organizational structures
- Professional process servers navigate these complexities through experience and judgment
- Replacing them with automated mail systems eliminates the human element precisely where it is most needed—in rural and other challenging service contexts

The Justice System in Rural America:

Ultimately, these amendments threaten the ability of the federal court system to function effectively in rural America:

- Rural courts depend on local professional infrastructure to operate
- When that infrastructure disappears, rural access to justice suffers
- Federal courts have a responsibility to serve all Americans, not just those in major metropolitan areas
- Policies that benefit urban litigants at the expense of rural communities undermine this responsibility
- Once rural service capacity is lost, it will not return—the damage will be permanent

X. Conclusion

Federal Rule 45 serves a critical function in the civil justice system: ensuring that subpoenas are delivered reliably, that recipients have adequate notice of their legal obligations, and that the compulsory process operates fairly. The proposed amendments threaten these fundamental functions in pursuit of administrative efficiency and cost reduction—and they do so in ways that will disproportionately harm rural communities and small businesses.

As CEO of MSG Legal, a small technology business in rural East Texas, I have seen how technology can enhance and support legal processes when implemented thoughtfully. I have also seen how technology can undermine justice when it prioritizes automation over accountability—and how federal policy changes can devastate small businesses and rural communities when those impacts are not adequately considered.

The proposed amendments represent a troubling approach: replacing proven human accountability with automated systems that cannot adapt to the complexities of real-world service scenarios, particularly in rural contexts. The changes will provide modest cost savings to large urban firms while imposing substantial costs on rural courts, small businesses, and individual litigants. They will accelerate the concentration of legal services in major metropolitan areas while creating permanent service deserts in rural America.

The economic impact on professional process servers is significant and deserves consideration, but the more fundamental concern is the impact on due process and the reliability of federal subpoenas—especially in communities that already struggle with limited resources and infrastructure. When service fails in rural areas, the consequences extend far beyond the immediate parties: cases are delayed, evidence is lost, witnesses fail to appear, small businesses close, and the integrity of the civil justice system is undermined.

Moreover, this federal rule change will not remain confined to federal courts. Its influence will cascade through state court systems, legal practice norms, and the broader ecosystem of legal services. The long-term effect will be the systematic dismantling of a professional service infrastructure that has supported the justice system reliably for generations—particularly in rural America where alternatives do not exist.

I respectfully urge the Committee to:

1. **Reconsider or withdraw** the proposed amendments in their current form
2. **Preserve personal service** as the presumptive method of subpoena delivery, with alternatives available only when personal service is genuinely impracticable

3. **Conduct comprehensive research** including:
    - Economic impact assessment with specific attention to rural communities and small businesses
    - Empirical study of alternative service reliability across urban and rural contexts
    - Analysis of distributional effects—who benefits and who bears the costs
4. **Engage with affected stakeholders** including:
    - Process servers, particularly those serving rural areas
    - Court reporters and other allied professionals
    - Legal technology providers, especially small businesses
    - Rural bar associations and rural court administrators
    - Small business advocacy organizations
5. **Pilot test** any proposed alternatives before implementing them nationwide, with:
    - Representation of both urban and rural jurisdictions
    - Data collection on reliability, costs, and economic impacts
    - Assessment of effects on small businesses and rural infrastructure
6. **Clarify ambiguities** in the current rule without abandoning proven service methods
7. **Include rural impact provisions** in any amendments that:
    - Protect rural service infrastructure
    - Account for differences between urban and rural contexts
    - Prevent the creation of permanent service deserts
    - Support small businesses adapting to changes
8. **Consider alternatives** that address legitimate efficiency concerns while maintaining reliability:
    - Graduated standards based on geography and subpoena type
    - Enhanced verification requirements for alternative methods
    - Evidentiary showings required before departing from personal service

- Phase-in periods with transition support for affected businesses

The federal judiciary has earned public trust through careful attention to procedural fairness and due process. The proposed amendments risk eroding that trust in exchange for modest administrative convenience that primarily benefits large urban entities. This is not a trade worth making—especially when the costs fall disproportionately on rural communities, small businesses, and individual litigants.

Rural America deserves a federal court system that works reliably. Small businesses that support that system deserve consideration in federal rulemaking. Due process protections that safeguard all Americans deserve preservation. I urge the Committee to reject these amendments and to work instead toward solutions that enhance efficiency without sacrificing reliability, fairness, or the viability of the professional infrastructure that makes justice possible.

Thank you for your attention to these concerns and for the opportunity to provide comment. I would welcome the opportunity to discuss these issues further or to provide additional information as the Committee continues its deliberations.

Respectfully submitted,

/s/Lee Allen Miller

Lee Allen Miller, CEO
MSG Legal
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Lufkin, Texas 75901
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Email: info@msglegal.net

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Comment from Diaz, Marta

Posted by the **United States Courts** on Feb 2, 2026

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0162

Tracking Number
ml1-6udk-4a1g

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Name / Organization]* MARTA M. DIAZ/J. P. MARSHALL INVESTIGATIONS
Date: *[Insert Date]* 1/29/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

ALL PROCESS SERVERS

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
[Name] MARTA M. DIAZ
[Title / Organization] Process server/investigator
[Contact Information] J. P. MARSHALL INVESTIGATIONS
P. O. BOX 14453, NORTH PALM BEACH, FL 33408
561-758-6417

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Comment from LaManna, rosemary

Posted by the **United States Courts** on Feb 2, 2026

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Federal Rule 45 Drop File comments

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Comment ID
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ml2-hcua-h8o2

Comment Details | **Submitter Info**

Received Date

PUBLIC COMMENT SUBMISSION ON PROPOSED AMENDMENTS TO FRCP RULE 45

Submitted by: Rosemary A. LaManna

Alstate Process Service Inc.

Date: January 31, 2026

To: Committee on Rules of Practice and Procedures

Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Alstate Process Service Inc., a process serving agency that has been serving process since 1980, to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and reliability of subpoena enforcement.

I. EXECUTIVE SUMMARY

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and

• introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. ECONOMIC IMPACT ON THE PROCESS-SERVING INDUSTRY

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

• Demand for traditional hand-delivery will sharply decline,
• Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and
• Small businesses—many of which are family-operated—will face significant financial pressure.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. RELIABILITY AND DUE-PROCESS CONCERNS

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

• outdated or incorrect addresses

• mail forwarding issues,

• shared or unsecured mailrooms, and

• carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. THE "SECOND WAVE" – ANTICIPATED SPILLOVER INTO STATE PRACTICE

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

• Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
• In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
• Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. Reduced demand for personal service in state courts, even without formal rule changes.
2. Growing vendor automation, shifting service away from skilled professionals.
3. Erosion of the process server's role in the justice system, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. REQUEST FOR RECONSIDERATION

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.

3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.

4. Gather additional testimony from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. CONCLUSION

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Rosemary A. LaManna

Alstate Process Service Inc.

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rose@alstateprocesservice.com

An official website of the United States Government.

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Comment from Z Process Service, Inc.

Posted by the **United States Courts** on Feb 2, 2026

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Sean Zawyer
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Tracking Number
ml4-bo56-ysoj

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

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- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

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A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from ALLCOUNTY LEGAL SUPPORT, INC.

Posted by the **United States Courts** on Feb 3, 2026

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USC-RULES-CV-2025-0004-0165

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ml5-ml8d-bofy

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PUBLIC COMMENT SUBMISSION ON PROPOSED AMENDMENTS TO FRCP RULE 45

Submitted by: Kevin Kowalski

Allcounty Legal Support Inc.

Date: January 31, 2026

To: Committee on Rules of Practice and Procedures

Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Alstate Process Service Inc., a process serving agency that has been serving process since 1980, to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and reliability of subpoena enforcement.

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A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. THE "SECOND WAVE" – ANTICIPATED SPILLOVER INTO STATE PRACTICE

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

• Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
• In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
• Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. Reduced demand for personal service in state courts, even without formal rule changes.
2. Growing vendor automation, shifting service away from skilled professionals.
3. Erosion of the process server's role in the justice system, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. REQUEST FOR RECONSIDERATION

For these reasons, I respectfully urge the Committee to:

1. Reconsider or withdraw the amendments as currently drafted.

2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.

3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.

4. Gather additional testimony from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. CONCLUSION

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Kevin Kowalski

Allcounty Legal Support Inc.

60 Burt Drive

Deer Park, NY 11729

kevin@allcountylegal.com

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PUBLIC SUBMISSION

Comment from Alava, Luis

Posted by the **United States Courts** on Feb 3, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See attached file(s)

Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0166/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0166

Tracking Number
ml5-nvh3-69ns

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Apex Process Serving Inc.

Posted by the **United States Courts** on Feb 6, 2026

Comment

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Bryan Canas
President - Apex Process Serving Inc.
951-567-1107

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Comment ID

USC-RULES-CV-2025-0004-0167

Tracking Number

ml7-e1o5-i4wz

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Comment from New York State Professional Process Servers Association by Paula Parrino, Esq., President

Posted by the **United States Courts** on Feb 6, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

Commentary for proposed Federal Rules Change Final

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Comment ID
USC-RULES-CV-2025-0004-0168

Tracking Number
ml9-mwyb-s806

Public Comment Opposing Proposed Amendments to FRCP Rule 45
Submitted by: Paula Parrino, Esq., President of the **New York State Professional Process Servers Association**
Date: February 5, 2026

Dear Members of the Committee,

I appreciate the opportunity to comment on the proposed amendments to Federal Rule of Civil Procedure 45. I submit this comment to express serious concerns regarding the economic harm to the professional process-serving industry and the broader risks the amendments pose to due process and reliable subpoena enforcement.

The proposed authorization of non-personal methods of subpoena service, including U.S. Mail, represents a significant departure from longstanding practice. While some courts have permitted alternative service on a limited basis, formalizing these methods as standard options will materially reduce reliance on personal service, resulting in substantial revenue loss for independent process servers and small agencies nationwide. However, more importantly, the proposed amendments create a serious risk that defendants and respondents will not receive proper notice of compulsory legal obligations, undermining the fundamental due-process protections the rule is intended to safeguard.

If it is ultimately determined that mailing should become an authorized method of service, it is critical that the Rules make clear that an independent third party must still be involved in effectuating and documenting that service. The neutrality and accountability provided by professional process servers help preserve the integrity of service of process and protect the constitutional principles of notice and fairness upon which our justice system depends.

Personal service is not merely traditional; it is fundamental to procedural fairness. Mail-based service carries inherent risks, including outdated addresses, shared mail facilities, forwarding issues, and delivery confirmation systems that do not verify receipt by the intended recipient. These shortcomings increase the likelihood of disputes, motions to quash, and enforcement challenges, placing additional burdens on litigants and courts.

By way of personal experience, my longtime mail carrier of more than a decade retired at the end of 2025. In just the past five weeks, while a new carrier has been learning the route, I have personally received dozens of pieces of misdirected mail intended for neighboring homes — including some addressed to residents on entirely different streets. While I took the time to deliver these items to the correct recipients, many people understandably would not. This everyday example illustrates the inherent risks of relying on mail delivery as a primary mechanism for legally significant notice.

In addition, recent procedural changes by the United States Postal Service concerning postmarks further raise concerns about the reliability of mail as a timing mechanism for service of process. Effective December 24, 2025, the Postal Service added Section 608.11, “Postmarks and Postal Possession,” to the Domestic Mail Manual (DMM). This section defines what constitutes a postmark, identifies the types of Postal Service markings that qualify, and explains how customers

may obtain evidence of the date the Postal Service accepts possession of mailings. Although the USPS has stated that these changes do not alter operational practices and are intended to improve public understanding, they nevertheless highlight ongoing complexities and uncertainties surrounding postmark availability and proof of mailing dates in legally time-sensitive matters. In legal contexts where strict deadlines and jurisdictional timing are critical, any ambiguity or inconsistency in postmarking practices presents additional risk and potential for dispute.

The Postal Service itself has acknowledged the limitations of postmarks as precise indicators of mailing dates. As explained in its Proposed Rule:

"Postmarks applied at originating processing facilities have never provided a perfectly reliable indicator of the date on which the Postal Service first accepted possession of a mail piece, and this fact will become more common under RTO. Therefore, to the extent that customers currently have this view of the postmark, it does not reflect the realities of postal operations. The purpose of DMM Section 608.11, and our forthcoming education efforts, is to make the actual meaning of the postmark more widely known, so that customers who may currently lack a clear understanding of the postmark can, if necessary, make adjustments to their mailing behavior—for example, by dispatching their mailings earlier, obtaining a manual (local) postmark at a retail location at no additional cost, or purchasing a Certificate of Mailing. However, to suggest … that 'this proposal quietly ends any meaningful reliability of a postmark as indicia or proof of mailing' is completely inaccurate, given that DMM Section 608.11 plainly states, '[t]he presence of a postmark confirms that the Postal Service accepted custody of a mail piece, and that the mail piece was in the possession of the Postal Service on the identified date.'"

While this clarification may assist mail users in understanding postal procedures, it simultaneously underscores that postmarks have never been a perfectly reliable timing mechanism and that customers may need to alter behavior or incur additional steps to secure proof of mailing. In the context of compulsory legal service — where deadlines, jurisdiction, and due process rights are implicated — these acknowledged limitations further demonstrate why mail should not replace personal service as a primary method.

Recent winter weather across the Northeast, Mid-Atlantic, and even Southern states further underscores the danger of relying solely on mail deliveries when strict timing requirements are involved. Severe storms, ice, and transportation disruptions routinely delay or suspend mail service for days at a time. By contrast, professional process servers continue to effectuate service in harsh conditions — through snow, ice, and extreme cold — ensuring that legal deadlines are met and litigants' rights are protected. These real-world conditions highlight the unreliability of mail as a primary method of service where constitutional notice and judicial efficiency are at stake.

The impact of this amendment will not remain confined to federal practice. Many states model their civil rules on the Federal Rules of Civil Procedure, and federal rule changes routinely influence state courts and attorney behavior. This spillover effect threatens to erode personal service standards nationwide, even absent formal state rule changes, and represents a significant long-term risk to the integrity of service of process.

As an attorney admitted in New York State, the President of the New York State Professional Process Servers Association, and the operator of a large professional process service agency that operates nationwide, I believe it is imperative that lawmakers fully consider all facets of service of process, including its economic realities, enforcement reliability, and critical role in safeguarding due process.

For these reasons, I respectfully urge the Committee to reconsider the proposed amendments, preserve personal service as the presumptive method of subpoena delivery, require independent third-party involvement in any alternative service methods, and conduct a meaningful economic impact assessment with input from affected professional associations before finalizing any changes.

Thank you for your consideration and for the opportunity to submit this comment.

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Comment from C, Olivia

Posted by the **United States Courts** on Feb 6, 2026

Comment

The proposed amendments to Rule 45 raise serious concerns about due process, reliability, and fairness in subpoena service. While mail service may appear efficient, its inherent delivery, receipt, and timing uncertainties—acknowledged even by the Postal Service—make it an inadequate substitute for personal service in compulsory legal proceedings. Weakening personal service standards not only risks failed notice and increased litigation disputes but also threatens the integrity of service of process nationwide, particularly as federal rule changes often influence state practice. If mail service is authorized, the continued involvement of neutral, independent third parties is essential to preserve accountability, procedural fairness, and public confidence in the justice system.

Comment ID
USC-RULES-CV-2025-0004-0169

Tracking Number
ml9-os6r-hmxd

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Comment Details | **Submitter Info**

Received Date
Feb 5, 2026

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Comment from Anonymous

Posted by the **United States Courts** on Feb 6, 2026

Comment

Dear Members of the Committee, I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Nationwide Court Services, Inc. to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement. Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners. A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide. I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45. Thank you for your attention and for the opportunity to comment.

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Comment ID

USC-RULES-CV-2025-0004-0170

Tracking Number

ml9-p8gc-astr

Comment Details | **Submitter Info**

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Comment from Vazquez, Tina

Posted by the **United States Courts** on Feb 6, 2026

Comment

Process serving has been a way of life and a means of financial support for I am an elderly person receiving Social Security and if it weren't for this wonderful profession, I don't know what I would do in place of my process serving skills. I begged the courts to consider anyone who has their own business how they would survive without process serving. There's very limited things that a senior can do these days and process serving has truly improve the quality of my life. If there's anything else that I can comment on with regards to saving our profession, please contact me Tina Vazquez thank you.

Comment ID
USC-RULES-CV-2025-0004-0171

Tracking Number
ml9-ro1u-0ty3

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Comment from PEAK PROCESS SERVERS INC

Posted by the **United States Courts** on Feb 6, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

Please see attachment

Attachments 1

re Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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Comment ID
USC-RULES-CV-2025-0004-0172

Tracking Number
ml9-sksf-9vve

Comment Details | **Submitter Info**

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PEAK PROCESS SERVERS INC

Meridian Investigations & Security

Investigations ● Trial Preparation
Licensed ●Bonded ● Insured

NYC – LONG ISLAND – WESTCHESTER – METRO NY AREA

E-mail: **contact@meridian-inv.com**
Tel: **516.822.7070**
Fax: **516.883.2776**
Add: **48 Davis Avenue, Port Washington, NY 11050**
URL: **MeridianInvestigationsNY.com**

February 5, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Peak Process to express significant concerns regarding both the economic impact on the professional process-serving industry and the broader systemic risks that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary
The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:
• materially reduce the demand for traditional in-hand subpoena service,
• cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
• introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- Demand for traditional hand-delivery will sharply decline,
- Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish, and
- Small businesses—many of which are family-operated—will face significant financial pressure.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery to the intended recipient.

Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. Reduced demand for personal service in state courts, even without formal rule changes.
2. Growing vendor automation, shifting service away from skilled professionals.
3. Erosion of the process server’s role in the justice system, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:
1. Reconsider or withdraw the amendments as currently drafted.
2. Preserve personal service as the presumptive method of subpoena delivery, with alternative methods available only upon a specific court finding.
3. Conduct a comprehensive economic impact assessment, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
additional testimony from professional associations whose members will be significantly impacted.
Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion
Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.
A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

Thank you.

Jeremy E. Stephens, Esq. │President
PEAK PROCESS SERVERS, INC. / LIC # 2079779-DCA
ph: 516.822.7070
add: 48 Davis Avenue │Port Washington, NY 11050
e-mail: jes@meridian-inv.com
w.: www.peakprocessserversinc.com
Member: NAPPS, NYSPPS
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Comment from Doolittle, James

Posted by the **United States Courts** on Feb 6, 2026

Comment

The proposed rule changes will be problematic for a number of reasons. Service of Process must allow for individuals to be notified properly for any court proceedings. The changes proposed would invariably erode the probability that anyone involved would be properly notified, which would lead to increased costs and burdens to all of the parties affected in each case. Service of process must continue to be "served" to an individual, and should never be allowed to be "mailed to a last known address" until such time as Due Diligence attempts to locate and serve an individual have been exhausted. Without that basic protection of rights, it can be argued that anyone was properly served even without notice. Furthermore, entrusting the current US Mail system with preserving anyone's due process rights is ludicrous on it's face. The Mail system frequently takes weeks to deliver a simple first class mailing, and quite often takes longer, if it even gets delivered. The proposed rule changes will only result in individuals not receiving legal process in a proper and timely manner, and the result will incur more time, costs, and efforts on Attorney's, Courts, and individuals. The committee should be focused on preserving Due Process and not on convenience where that convenience erodes responsibility. Thank you.

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Comment ID

USC-RULES-CV-2025-0004-0173

Tracking Number

ml9-sopd-aby0

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Comment from Greenspan, Aaron

Posted by the **United States Courts** on Feb 9, 2026

Comment

As a plaintiff in a lawsuit where service of a subpoena via Certified Mail has turned into a major issue, I am completely in favor of the suggested changes to Rule 45(b)(1)(A). Even in a jurisdiction where the court previously ruled that mail service of a subpoena was acceptable, I was surprised to find that the judge in my case changed her mind and ruled it unacceptable for no particular reason. This rule change would make clear that service by mail is acceptable, which is common sense. Despite process servers' concerns that they are working in an industry increasingly threatened by technology--which will not change--there is no valid reason to think that mail service is unreliable for subpoenas when it is already fully baked into Rule 5 for other types of legal filings (and should be baked into Rule 4). Every government agency should have a dedicated portal and/or e-mail address for electronic service and this should also be reflected in Rule 4, maybe in a future draft of proposed changes.

Along those lines, I would encourage the Judicial Conference to consider additional rule changes that help the judiciary keep up with modern technology, because the current rules needlessly increase expense, friction, and pointless motion practice in a world where almost everything is already on-line.

I also support changes to Rule 7.1 that would make clearer exactly who has a conflict with a judge, starting with litigation finance companies, but not limited to them. I was involved in a case where a federal judge falsely claimed that he had no conflict with a law firm that he previously worked for because his employment there ended long ago. What he neglected to mention, deliberately, was that his wife still earns income for his household from that firm, which is prominently displayed as one of her legal consulting firm's clients on its home page. The United States Court of Appeals for the Ninth Circuit ruled that this was not a conflict, but of course this is nonsense. This particular judge's wife literally advertises to her lawyer clients, who practice before her husband, that "She is married to the Hon. [Judge] of the [District] federal court." This type of brazen corruption, which also similarly affects the Chief Justice of the United States (see https://www.abajournal.com/news/article/wife-of-chief-justice-roberts-generated-10m-in-commissions-in-this-job-whistleblower-says, https://www.nytimes.com/2023/01/31/us/john-roberts-jane-sullivan-roberts.html), has no place in our judiciary and the Rules should reflect that emphatically. Nor should judges be permitted

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to redact their AO-10 financial disclosure forms.

Changes to the Federal Rules of Civil Procedure are worthless without judges being honest, and are doubly worthless if judges are unwilling to follow them.

Aaron Greenspan
San Francisco, CA

Comment ID

USC-RULES-CV-2025-0004-0174

Tracking Number

ml9-0ry2-bxly

Comment Details | **Submitter Info**

Received Date

Feb 5, 2026

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Comment from PERILLO PROFESSIONAL SERVICES LLC

Posted by the **United States Courts** on Feb 9, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

I am submitting the following statement in response to the proposed changes to federal rules regarding service of process:
“Process servers play a critical role in safeguarding due process by ensuring timely, verifiable, and reliable notice to parties. Replacing personal service with mail service would lead to increased challenges to service, greater court congestion, and reduced confidence in the fairness of proceedings, particularly for vulnerable or transient populations.” THIS IS INSANE TO THINK OF CHANGING.

Comment ID
USC-RULES-CV-2025-0004-0175

Tracking Number
mlb-8u2f-56yk

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Received Date
Feb 6, 2026

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PUBLIC SUBMISSION

Comment from Legal Lawgic,Inc.

Posted by the **United States Courts** on Feb 9, 2026

Comment

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DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45- KS

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Kristin Shabinaw- Operations Manager of Legal Lawgic, Inc.
Date: 02/06/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- Materially reduce the demand for traditional in-hand subpoena service,
- Cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- Introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- Outdated or incorrect addresses
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These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

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The ripple effect is predictable and dangerous:

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2. **Growing vendor automation**, shifting service away from skilled professionals.
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This second wave represents the most significant long-term threat to the industry.

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For these reasons, I respectfully urge the Committee to:

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simultaneously destabilizing an entire profession that has served the courts dependably for generations.

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Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

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Thank you for your attention and for the opportunity to comment.

Sincerely,
Kristin Shabinaw
Operations Manager

Legal Lawgic, Inc.
4195 Chino Hills Pkwy., Suite E #411,
Chino Hills, CA 91709
Office: 888.507.3434
Fax: 888.507.3434
website: legallawgic.com

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Louie Graziadio- Owner/President of Legal Lawgic, Inc.
Date: 02/06/2026

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Sincerely,
Louie Graziadio
Owner/President

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Submitted by: Renee Wright- Customer Service- Legal Lawgic, Inc.
Date: 02/06/2026

To:
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Administrative Office of the United States Courts

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Sincerely,
Renee Wright
Customer Service

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Comment from National Health Law Program

Posted by the **United States Courts** on Feb 9, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Thank you for considering the attached comments from the National Health Law Program.

Attachments 1

Comments proposed FRCP.FRE

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Comment ID
USC-RULES-CV-2025-0004-0177

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mlc-oqnt-41sy

Comment Details | **Submitter Info**

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NATIONAL HEALTH LAW PROGRAM
1512 East Franklin Street, Suite 110
Chapel Hill, NC 27514

February 7, 2026

Standing Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE Washington, DC 20544

Dear Standing Committee:

The National Health Law Program appreciates this opportunity to submit comments on the proposed amendments to Federal Rules of Civil Procedure Rules 26(a), 45(c), and 41(a) and to Federal Rules of Evidence Rule 703.

Fed. R. Civ. P. 26(a) and 45(c)

NHeLP supported the proposed amendments. These changes to Rules 26(a) and 45(c) clarify the permissibility of remote testimony, which promotes the efficiency of judicial proceedings and resource conservation. This change is consistent with the animating purpose of the federal rules "to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1.

Remote deposition and trial testimony have become commonplace. Even before widespread adoption during the COVID-19 pandemic, courts and litigants utilized remote vehicles (*e.g*., teleconferencing and videoconferencing) to right-size the costs of participation in judicial processes. As these costs continue to increase, courts and litigants should be permitted to make thoughtful, resource-informed decisions regarding the relative need for in-person and remote participation. The proposed amendments facilitate careful stewardship of court and litigant resources and should be adopted.

Fed R. Civ. P. 41(a)

NHeLP strongly supports amending Rule 41(a) to allow parties to dismiss one or more claims from a multi-claim suit. NHeLP's attorneys practice in every circuit court in the country. As a result, in executing dismissals of a single claim in a multi-claim case under Rule 41(a), our practice has been different depending on the circuit court in which we are appearing. For example, last year, in the Sixth Circuit, we were able to file a stipulated dismissal of a single claim in accordance with Rule 41(a). This process was

simple, straightforward, and did not implicate any other aspect of litigation—which had been pending for years and in which significant discovery had already occurred. Had we been required to amend the complaint, we would have had to consider whether other parts of the complaint should be amended given development of the facts.

By contrast, last summer in the Eleventh Circuit, we were unable to use Rule 41(a) to dismiss a single claim in a certified class action case that had proceeded to trial but for which we had not yet received a final decision. Instead, we were required under circuit precedent to confer with opposing counsel, file a consent motion for leave to amend pursuant to Rule 15, and, once granted, file an amended class complaint.[1] The process was onerous and resource intensive for the parties and the court. Since the parties were not allowed to proceed under Rule 41 to dismiss a single claim, it was within the district court's sole discretion as to whether to grant our request.

Relatedly, given that the case involved a certified class, we had additional concerns about the interplay between Rule 23 and Rule 15, namely whether the use of Rule 15 to amend the complaint constituted a dismissal under Rule 23(e)(1) and its procedures requiring the district court to determine if class-wide notice of the claim dismissal is required, if the dismissal would bind the class in such a manner as to prompt the need for a fairness hearing, and if class members should then be given the option to file objections and ask to be excluded. We therefore suggest that the Standing Committee include additional advisory notes in Rule 41 and/or Rule 23 to clarify when the court's obligations under Rule 23(e)(1) are triggered by the dismissal of a single claim pursuant to Rule 41.

Fed. R. Evid. 707

We appreciate the intent of proposed Rule 707 but have concerns that the definition of machine-generated evidence is not sufficiently specific. We are concerned the amendment will result in significant motion-practice over the meaning of "machine-generated" evidence and whether the reliability standards of Rule 702 apply.

As written, the amendment could be read to encompass important factual evidence in civil rights cases regarding public benefits administration. NHeLP regularly litigates cases that involve fact discovery into the operation of state Medicaid eligibility systems, which are large, multi-faceted computer systems that automate eligibility

[1] *See Perry v. Schumacher Group of La.*, 891 F.3d 954, 958 (11th Cir. 2018) ("[I]t has been held that when multiple claims are filed against a single defendant, Rule 41(a) is applicable only to the voluntary dismissal of all the claims in an action. A plaintiff who wishes to drop some claims but not others should do so by amending his complaint pursuant to Rule 15.")

determinations. These are typically machine-generated decisions that obtain data from third-party databases and apply a set of business rules to evaluate the inputs, producing an eligibility determination (e.g., whether the inputs show the individual is over or under the applicable income limits). In our cases, fact questions often emerge about how the computer system is programmed and whether it is operating as intended. We rely on lay witness testimony of government employees to explain what information was put into the computer system and what eligibility decisions were made by the system. These are historical, factual questions, not expert testimony.

Subjecting this evidence to a reliability inquiry equivalent to Rule 702 would be a significant barrier and potentially inconsistent with our legal claims. For example, we are often arguing that the computer systems are *not* reliable because they do not produce the intended outcome, resulting in harm to our clients who are deprived of health care for which they are eligible.

The Committee Notes suggest that the Rule is intended to apply to this sort of historical, factual evidence but rather to machine-based evidence that is created for the litigation and which "make[s] predictions or draw[s] inferences from existing data," as an expert would. However, the proposed Rule as written does not make these distinctions—and the exclusion of "basic scientific instruments" adds to the confusion implying an exceptionally broad scope. As written, the Rule could hamper our ability to present factual evidence through lay witnesses without having to hire an expert (and incur significant additional expenses).

We encourage the Committee to provide a precise definition of machine-generated evidence and to clarify that the Rule applies only when the evidence is the equivalent of expert opinion testimony and should not preclude introduction of relevant factual evidence that is machine or computer-generated.

Thank you for considering these comments. If you have questions, please contact us.

Sincerely,

Jane Perkins

Jane Perkins
perkins@healthlaw.org

An official website of the United States Government.

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PUBLIC SUBMISSION

Comment from Alena Boyll

Posted by the **United States Courts** on Feb 9, 2026

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Attachments 1

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Tracking Number
mle-4whd-ilua

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Name / Organization]*
Date: *[Insert Date]*

To:
Committee on Rules of Practice and Procedure
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Sincerely,
Alena Boyll
3520 w. Sycamore St.
Kokomo IN. 46901
765-398-2520
Mrs.boyll2@yahoo.com

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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Feb 9, 2026

Comment

This definitely should Not be passed.

Comment ID
USC-RULES-CV-2025-0004-0179

Tracking Number
mle-75sr-1zur

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Received Date
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Comment from American Process Service

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Attachments 1

Public Comment on Proposed Rule 45 Change US Court

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Comment ID
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mle-99jq-vxj3

Comment Details | **Submitter Info**

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Submitted by: *[Name / Organization]* American Process Service
Date: *[Insert Date]* February 8, 2026

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Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

[Name]	Bob Deale
[Title / Organization]	Owner - American Process Service
[Contact Information]	(775) 337-1117 or bob@renoprocess.com

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Comment from Arizona Process Servers Association

Posted by the **United States Courts** on Feb 9, 2026

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Comment

The proposed amendments would replace a clear and dependable standard with one that introduces uncertainty and invites additional disputes. Administrative convenience should not come at the expense of verifiable notice and due process.

Personal service is not a relic of the past. It remains the most reliable means of ensuring subpoenas provide actual notice and that courts, litigants, and non-parties are protected by a process that is accurate, accountable, and fair.

The Arizona Process Servers Association objects to the proposed changes in FRCP Rule 45.

Attachments 1

FRCP RULE 45 2026-02-08 APSA OBJECTION LTR (FINAL)

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Arizona Process Servers Association
ArizonaProcessServers.org

8 February 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

RE: Proposed changes to FRCP Rule 45 (Subpoena)

Dear Members of the Committee:

The Arizona Process Servers Association (APSA) appreciates the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45.

The undersigned submits this comment on behalf of APSA to express our significant concerns regarding the risks that the amendments pose to due process and the reliability of subpoena enforcement, both within and outside of Arizona.

As you may be aware, Arizona generally follows federal law and rules of court in its administration of justice. Subpoenas are a significant part of the adjudication process, whether for purposes of civil or criminal discovery, including direct witness testimony at hearing, trial, deposition, or by providing documents or allowing access to and preservation of evidence.

Personal Service and Contempt.

The service of a subpoena, whether at the federal (District Court) level, or at one of the state court levels (Superior or the lower trial courts) has always been fulfilled by personal service. This is due to the requirement that actual notice be given to the witness.

Defiance of a subpoena is … an act in defiance of a court order and exposes the defiant witness to contempt sanctions.[1] "The court for the district where compliance is required …may hold in contempt a person who, having been served,

[1] Notes of Advisory Committee on Rules—1991 Amendment

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fails without adequate excuse to obey the subpoena or an order related to it." [FRCP Rule 45(g)]

Actual notice positively documents the service, and holds the witness accountable to the court. Within existing FRCP Rule 45[2] and the Rules of Civil Procedure for the Superior Courts of Arizona (ARCP) Rule 45[3] (governing subpoenas), there is a power of the court to hold a defiant witness in contempt for failure to appear. *But the person who is alleged to be in defiance must know they are in defiance*.

The current proposal would nullify the courts' power to punish contempt of its authority due to disobedience or resistance to its lawful writ, process, order, rule, decree, or command.[4] For a person to be found in contempt, that person must have actual knowledge of the order of the court, arising from being given actual notice (personal service) of the process from which the contempt is based. Without personal service of the subpoena (order), there is no basis with certainty to allege a contemnor must have known about the order.

Disobedience of a subpoena must be intentional, not due to mistake, accident, or inability for contempt to hold. Personal service, giving actual notice, ensures that the legal process is presented to the person and they have the opportunity to understand the consequences of disobedience of the court's order.

Proposed changes would allow Constructive Notice in place of Actual Notice. Leaving a copy of the subpoena at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there, sending a copy to the person's last known address by certified U.S. mail or commercial-carrier delivery (i.e.: FedEx), requiring a signature does not guarantee, much less suppose personal notice. All these methods would do is record delivery of the document

[2] FRCP Rule 45(g) Contempt. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.
[3] ARCP Rule 45(f) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it….
[4] *See*, 18 U.S. Code § 401

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(provided the recipient accepted delivery), not to document that the person intended for its receipt actually received the legal process.

Further, these methods do not indicate the person (witness) actually resides at the address of the mail or commercial carrier delivery.

The person served must know they are being served.

Within Arizona, legal process being served must be presented in a visible manner. Sending a subpoena in a sealed envelope does not ensure that a person signing for the document would open the envelope, nor that the person receiving it is the witness. There is no guarantee that a subpoena in an envelope, or that given to a third person (not the witness) in substitute, that the witness would have knowledge that the papers are so left, and the witness apprised in some substantial form that service is intended to be made.[5] Only personal service accomplishes the giving of actual notice.

Additionally, delivery by U.S. Mail or commercial carrier, or the attempt thereof, does not guarantee that the person to whom the subpoena is directed, actually resides there, any longer. A delivery notice left in a mailbox or pasted to a front door is often ignored, especially if the address is incorrect for the witness. The instant proposal would allow the proffering party to seek alternative means of service (i.e.: posting and mailing), ostensibly at an address which may no longer good for the witness.

Constructive Notice does not equate to Actual Notice.

The use of "…another means that is authorized by the court for good cause reasonably calculated to give notice…" (i.e.: alternative means of service), such as posting the document to the front door of the residence or business and thereafter mailing a copy, likewise, does not guarantee that the witness actually received the document. Only personal service brings actual notice. Methods other than personal service give constructive notice, *a hope* that the person received the legal process.

[5] See, *Tonelson v. Haines* 2 Ariz. App. 127 (1965) 406 P.2d 845

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Without the power of the court to hold a witness accountable through contempt proceedings arising from actual notice, obedience of a subpoena served at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there, or by other proposed means, would be at the sole option and discretion of the alleged contemnor, leaving open the door to a distinct inability of the court to enforce its own order. There would be no reliable way to prove actual knowledge.

Opening the Can of Worms.

Allowing substituted, certified, commercial carrier, and alternative means of service for subpoenas, in which an alleged contemnor may be punished for contempt of court, interference with judicial proceedings[6] or other statutory violations, would require substantially more unnecessary time, effort and proceedings to investigate and find the alleged contemnor had actual knowledge of the requirement to appear.

Such is not the case in direct, personal service to the witness.

The instant proposal would further bog down our judicial proceedings with additional motions, hearings, and delays to investigate and pursue alleged violations of the order of the court to appear. It would also result in increased and unnecessary loss of judicial time, resulting in the courts having to make findings because of disputed service of process based on faulty service methods allowed by new (proposed) rules.

This proposed rule change would introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

---

[6] ARS § 13-2810. Interfering with judicial proceedings; classification
A. A person commits interfering with judicial proceedings if such person knowingly:
…
2. Disobeys or resists the lawful order, process or other mandate of a court; or
3. Refuses to be sworn or affirmed as a witness in any court proceeding; or
…
B. Interfering with judicial proceedings is a class 1 misdemeanor.

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Trickle Down to the States.

According to the National Association of Professional Process Servers,

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.
- *The ripple effect is predictable and dangerous*.

There is no widespread basis for a change.

The Committee's review identified only two cases involving service difficulties, both involving individuals actively evading service. These examples reflect evasive behavior, not a systemic problem with the rule itself. There is no empirical evidence showing that the current personal service requirement creates widespread problems or that expanding alternative methods would improve compliance, fairness, or efficiency.

Conclusion.

The proposed amendments would replace a clear and dependable standard with one that introduces uncertainty and invites additional disputes. Administrative convenience should not come at the expense of verifiable notice and due process.

Personal service is not a relic of the past. It remains the most reliable means of ensuring subpoenas provide actual notice and that courts, litigants, and non-parties are protected by a process that is accurate, accountable, and fair.

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For the above reasons, the Arizona Process Servers Association objects to the proposed changes in FRCP Rule 45.

Arizona Process Servers Association

Barry R. Goldman

BARRY R. GOLDMAN
Administrator

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Comment from Prime Civil Process DBA

Posted by the **United States Courts** on Feb 9, 2026

Comment

As a private process server here in Bexar County, this new proposal seems to eliminate some issues with confirmed" delivery" of important legal documents, no matter the style. My success rate is not as good when compared to other servers in my area, which in turn impeeds the courts from getting these cases resolved in a timely manner. I hope 2026 is a better year for all involved in service of process.

Attachments 1

IMG_4626

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Comment from Johnson, Casey

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See attached file(s)

Attachments 1

Comment Ltr Rule 41 45 and 26

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February 9, 2025

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
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Dear Committee Members:

I am an attorney who has exclusively represented plaintiffs in state and federal court matters for more than 23 years. The following comments are respectfully submitted in support of proposed changes to Federal Rules of Civil Procedure Rule 41(a), 45(b), 45(c), 26(a).

The proposed changes to FRCP 41(a) resolves uncertainty in some courts and allows for a plaintiff to dismiss one or more claims against a party. This change brings the rule in the line with the reality of multi-party, multi-claim litigation, which frequently requires a plaintiff to plead all possible claims due to limited access to the evidence. During the course of litigation, plaintiffs frequently streamline the Complaint based on the state of the evidence, eliminating claims that may no longer be viable. The proposed change will reduce the need for amended Complaints under Rule 15 - saving time and resources for all parties and the courts. And the further change regarding the stipulation in Rule 41(a)(1)(A)(ii) also appropriately removes barriers that exist by seeking consent from wholly uninterested former parties. In fact, the committee may want to consider requiring only "affected" parties sign such a stipulation.

The proposed change to FRCP 45(b) regarding service of subpoenas recognizes the reality that the purpose of service of a subpoena is to give the subpoenaed party reliable and adequate notice of their need to appear to testify. By recognizing that the means for serving a Complaint are similarly sufficient for serving a subpoena for testimony, allowing for confirmed receipt mailing and further allowing other means as approved by the Court, the proposed change acknowledges the challenge posed by allowing only "personal service." This includes, but is not limited to, individuals living in gated communities or buildings or other secured locations. The proposal also provides for a definitive 14 day notice period to ensure sufficient notice for convenience of the witnesses. The proposed changes will promote litigation efficiency and reduce litigation costs, especially with respect to non-party witnesses.

Finally, the proposed changes to FRCP 45(c) and 26(a) would correct the Ninth Circuit's holding in *In Re Kirkland*, 75 F.4th 1030 (9th Cir. 2023), which held that district courts lack the "subpoena authority" to command a distant witness to provide remote trial testimony, despite a 2013 revision of Rule 45 permitting a presiding court to issue a subpoena commanding a witnesses to testify that can be served anywhere in the United States. The corresponding change would further clarify that remote witnesses are covered by the pretrial disclosure requirements in FRCP 26(a). As correctly observed in the Committee Note, the proposed changes expand access to justice by ensuring plaintiffs and nonparties are not excluded from proceedings solely because of their geographic location, and promoting for the most interactive, engaging trial possible for judges and juries, with live/interactive remote testimony which is always far superior to stale, recorded deposition testimony.

Each of these proposed rule changes will promote justice and efficiency in litigation and trial for civil litigants. For these reasons, I respectfully request the committee adopt the proposed changes to FRCP 41, 45(b), 45(c) and 26(a).

Sincerely,



CASEY R. JOHNSON

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Comment from International Attestations, LLC

Posted by the **United States Courts** on Feb 10, 2026

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Comment

This comment generated by the Honorable Melissa A. Kotulski of International Attestations, LLC(R)(IAUSA) is developed at the prompting of the periodic and regular review of the rules through a rule making process that is generated by the U.S. Courts as presented by the Judicial Conference Advisory Committee (JCAC). For the 2026 Comment Period, the Committee presented its proposed procedural rule-changes for the U.S. bodies of law pertaining to Appellate, Bankruptcy, Civil, Criminal and Evidence (Collectively, The Rules. Separately Appellate Rules, Bankruptcy Rules, Civil Rules, Criminal Rules, and Evidence Rules). Ms. Kotulski has submitted testimony for the Civil Rules, and she is focusing her comments on three topics that also includes a review of one of the proposed changes to Evidence.
The drafters of the Rules of Civil Procedure and Evidence, in part, propose rules that are touching upon how procedure is impacted by new technology regarding notice of and place for g giving remote testimony (Civil Rules 26 and 45) along with the admissibility of that which is machine-generated (Evidence Rule 707). Also, business organizations will now be included as part of the provision addressing corporations (Civil Rule 7.1) as well as a shift to individual claims rather than entire action dismissals (Civil Rule 41).

IAUS

The drafters of the Rules of Civil Procedure and Evidence, in part, propose rules that are touching upon how procedure is impacted by new technology regarding notice of and place for giving remote testimony (Civil Rules 26 and 45) along with the admissibility of that which is machine-generated (Evidence Rule 707). Also, business organizations will now be included as part of the provision addressing corporations (Civil Rule 7.1) as well as a shift to individual claims rather than entire action dismissals (Civil Rule 41).

IAUSA proposes that the Judicial Conference further consider the rules in the international context something they exemplified that they already "get" by enriching pathways for inclusion of American borne personages whether individual, corporate agency, or other. They "get" business in the context of the Federalist Papers and the International Court of Justice. They "get" claims-based (rather than entire case-based) dismissals with a caution to understand them in the U.S. jurisprudence of the line-item veto. And they "get" technology's

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influence on the Courts--and may well wait some more time to make rules when their rules are not quite ripe for publication yet. (Comment Attached from the Honorable Melissa A. Kotulski of International Attestations, LLC)

Attachments 1

2026.2.9 Rules for Judicial Conference Changes

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INTERNATIONAL ATTESTATIONS, LLC® (IA) (USA)

Judicial Conference of the United States of America



GETTING INTERNATIONAL MATTERS IN U.S. RULE CHANGES: CLAIMS, BUSINESS ORGANIZATIONS & TECHNOLOGY

Comments for Proposed Rule Changes 2025-2026

Prepared by: The Honorable Melissa A. Kotulski
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IA Website: https://internationalattestations.com

Date Submitted: Monday, February 9, 2026, 11:59 p.m. PST

U.S. JUDICIAL CONFERENCE COMMENTS (2026)
FROM INTERNATIONAL ATTESTATIONS, LLC ®

GETTING INTERNATIONAL MATTERS IN U.S. RULE CHANGES:
BUSINESSES, CLAIMS, & TECHNOLOGY

TABLE OF CONTENTS

TABLE OF CONTENTS.....I

FOR PUBLICATION AT JUDICIAL CONFERENCE REGULATIONS.GOV.....IV

ABBREVIATIONS V

STATEMENT OF PURPOSE.....VI

ORGANIZATIONAL STATEMENT: INTERNATIONAL ATTESTATIONS, LLC ® VIII

TABLE OF AUTHORITIES.....X

WRITTEN COMMENTS

I. INTRODUCTION: INTERNATIONAL ATTESTATIONS ENCOUNTERS THE JUDICIAL CONFERENCE RULE CHANGES FOR 2026 .....- 1 -

II. PRINCIPAL ENCOURAGEMENTS BY INTERNATIONAL ATTESTATIONS ..... - 6 -

A.) GETTING BUSINESS: COMMENDATIONS & CAUTIONS FOR BETTER PERFECTING LEGAL TERMS OF ART THROUGH THE USE OF "BUSINESS ORGANIZATIONS" (CIVIL RULE 7.1) ..... - 7 -

B.) GETTING CLAIMS: THE LINE-ITEM VETO MAY BE GOOD LAW TO LOOK TO IN CLAIMS VERSUS ACTIONS BASED IN CIVIL RULE 41 ..... - 12 -

C.) GETTING TECHNOLOGY: WHETHER AND HOW TO ACCOUNT FOR NEW TECHNOLOGY (CIVIL RULE 26 & 45; EVIDENCE 707) ..... - 13 -

III. CONCLUSION ..... - 15

DOCUMENTS

DOCUMENTS LIST 1

DOCUMENT 1. INTERNATIONAL ATTESTATIONS & HONOR USE LICENSING 3

DOCUMENT 2. TESTIMONY (CIVIL RULES 7.1, 26, 41, 45; EVIDENCE 707) OUTLINE, NOTES ON IA TESTIMONY, NOTES ON OTHER TESTIMONIES 5

DOCUMENT 2.1 ORIGINAL OUTLINE 6
DOCUMENT 2.2 JANUARY 27, 2026: CIVIL RULES 7.1, 26, 41, & 45 7

DOCUMENT 3. RELEVANT IAUSA ARTICLES (MOST RECENT FIRST) BY THE HON. MELISSA A. KOTULSKI 11

DOCUMENT 3.1 UNSC '26: NATURALLY CASTING LATVIA'S WOODEN BREADBASKET & AID KIT (JANUARY 12, 2026) 12
DOCUMENT 3.2 INTERNATIONAL NARCOTICS & LAW ENFORCEMENT BUREAU & ICJ 2022 REDUX (NOVEMBER 14, 2025)..... 17
DOCUMENT 3.3 OUTSIDE TESTIMONY SUBMISSION DATES ARE HERE! (MAY 5, 2025) 23
DOCUMENT 3.4 ANALYSIS OF THE UN SECURITY COUNCIL'S CLASS OF 2024 (JANUARY 30, 2024) 26
DOCUMENT 3.5 U.S. SUPREME COURT: WITHER THE CYBER? (JULY 25, 2023)..... 34
DOCUMENT 3.6 UNITED NATIONS & GLOBAL COUNTER-TERRORISM STRATEGY (JUNE 13, 2023) 37
DOCUMENT 3.7 OBLIGATIONS IN ADVISORY OPINIONS AT THE ICJ (APRIL 25, 2023) & CONSEQUENCES IN ICJ ADVISORY OPINIONS: QUESTIONS & HOLDINGS (MAY 16, 2023) 43
DOCUMENT 3.9 NATIONALITY & HOOPS AT COURT (MAY 17, 2022) 65

DOCUMENT 4. NOTES TO SUPPORT COMMENTS (INTERNAL DOCUMENT) 67

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1.) Proposed Amendments to the Federal Rules of Appellate Procedure (Posted August 13, 2025, Due February 16, 2026) https://www.regulations.gov/docket/USC-RULES-AP-2025-0001/document.

2.) Preliminary Draft of Proposed Amendments to the Federal Rules of Bankruptcy Procedure (Posted August 13, 2025, Due February 16, 2026) https://www.regulations.gov/document/USC-RULES-BK-2025-0002-0001.

3.) Proposed Amendments to the Federal Rules of Civil Procedure (Posted August 13, 2025, Due February 16, 2026) https://www.regulations.gov/docket/USC-RULES-CV-2025-0004.

4.) Proposed Amendments to the Federal Rules of Criminal Procedure (Posted August 13, 2025, Due February 16, 2026) https://www.regulations.gov/docket/USC-RULES-CR-2025-0003.

5.) Preliminary Draft of Proposed Amendments to the Federal Rules of Criminal Procedure (Posted August 13, 2025, Due February 16, 2026). https://www.regulations.gov/document/USC-RULES-EV-2025-0034-0001.

ABBREVIATIONS

Appellate Rules	The Rules of Appellate Procedure
Bankruptcy Rules	The Rules of Bankruptcy Procedure
Civil Committee	The Rules Committee dedicated to the Rules of Civil Procedure at the Judicial Conference of the United States of America
Civil Rules	The Rules of Civil Procedure
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CAS	Court of Arbitration for Sports
Criminal Rules	The Rules of Criminal Procedure
Evidence Rules	The Rules of Evidence
IAUSA	International Attestations, LLC
ICJ	International Court of Justice
ILC	International Law Commission
JCAC	The Judicial Conference Advisory Committee
The Rules	The body of rules for appellate, bankruptcy, civil, criminal, and evidence procedures.

STATEMENT OF PURPOSE

This comment generated by the Honorable Melissa A. Kotulski of International Attestations, LLC© (IAUSA) is developed at the prompting of the periodic and regular review of the rules through a rulemaking process that is generated by the U.S. Courts as presented by the Judicial Conference Advisory Committee (JCAC). For the 2026 Comment Period, the Committee presented its proposed procedural rule-changes for the U.S. bodies of law pertaining to Appellate, Bankruptcy, Civil, Criminal, and Evidence (Collectively, The Rules. Separately Appellate Rules, Bankruptcy Rules, Civil Rules, and Criminal Rules, and Evidence Rules). Ms. Kotulski has submitted testimony for the Civil Rules, and she is focusing her comments on three topics that also includes a review of one of the proposed changes to Evidence.[1]

[1] For the record, the other proposed rule changes are worthy of comment as well: 1. **Appellate Rule 15** (Review or Enforcement of an Agency Order—How Obtained; Intervention) addressing incurably premature petitions or applications; 2. **Bankruptcy Rule 2002** (Notices) in the context of captions referring to Form 416B requirements for a caption and **Bankruptcy Forms 101** (Voluntary Petition for Individuals Filing for Bankruptcy) showing which Employer Identification Number is required and **106C** (The Property You Claim as Exempt) determining exempted assets; 3. **Civil Rule 81** (Applicability of the Rules in General; Removed Actions) pertaining to jury demand after removal; 4. **Criminal Rule 17** (Subpoena) regarding relevance and materiality in subpoenas to third parties of applicability, codification of a *Nixon* standard, motion and order timing, *ex parte* proceedings, place of production, preservation of disclosure policies, and clarification of provisions for different proceedings; 5. **Evidence Rule 609** (Impeachment by Evidence of a Criminal Conviction) regulating the probative value and prejudicial effect of convictions in a "protective" balancing test. These Rules can be instructive for analysis of the other rules. For example, IA's argument that New Evidence Rule 707 be tabled or nixed entirely may be emboldened by comparison to approaches to Criminal Rule 17—which had gone through a potential erasure from that body of rules.

The drafters of the Rules of Civil Procedure and Evidence, in part, propose rules that are touching upon how procedure is impacted by new technology regarding notice of and place for giving remote testimony (Civil Rules 26 and 45) along with the admissibility of that which is machine-generated (Evidence Rule 707). Also, business organizations will now be included as part of the provision addressing corporations (Civil Rule 7.1) as well as a shift to individual claims rather than entire action dismissals (Civil Rule 41).

IAUSA proposes that the Judicial Conference further consider the rules in the international context something they exemplified that they already "get" by enriching pathways for inclusion of American borne personages whether individual, corporate agency, or other. They "get" business in the context of the Federalist Papers and the International Court of Justice. They "get" claims-based (rather than entire case-based) dismissals with a caution to understand them in the U.S. jurisprudence of the line-item veto. And they "get" technology's influence on the Courts--and may well wait some more time to make rules when their rules are not quite ripe for publication yet.

ORGANIZATIONAL STATEMENT: INTERNATIONAL ATTESTATIONS, LLC ®

International Attestations, LLC® is a small, woman-owned organization borne from Hartford/Wethersfield, Connecticut (USA) that is focused on international affairs, international law, and constitutional law. The Honorable Melissa A. Kotulski, the Founder, Owner, & President of the organization, brings over forty years of experience in these fields—inclusive of rule-making procedures at the local, state, federal, and international levels. In fact, her experience with the centered diplomatic community at the U.S. State Department was buttressed by a direction of her gaze to Regulations.gov whilst further applying Administrative Law (Professors Andy Grewal & John Reitz) after developing expertise in that work in the Nation's capitol and other situses. This led to her advocacy of the platform to the U.S. Supreme Court during the rule changing efforts of 2022, which she sent via U.S. Post because electronic filings were unavailable and which led to the Clerk to send her a laudatory note on the matter.

The milestones of the three-year-old organization to-date have been wide-ranging at each level—

1. Serving as a presiding judge by applying International Court of Justice (ICJ) jurisprudence for the betterment of the next generation of the international law community.

2. Ensuring that national judiciaries were compliant with treaty standards set out by international bodies like G.R.E.C.O. with the U.S. State Department,

3. Engaging with ICJ and International Law Commission (ILC) activities in a formal setting at the General Assembly of the United Nations.

4. Conducting a series of blogposts dedicated in relevant part to the study of Federal Courts and Affairs, including an understanding of the rules-based processes in the U.S. and beyond its borders.

5. Analyzing intensively the hot zones of Israel and Russia/Ukraine, amongst other places around the globe that involve U.S. military and government as well as UN engagement—even attending the emergency session for Israel in late 2023 at the General Assembly of the United Nations.

6. Immersing herself in U.S. Supreme Court jurisprudence from an early age, inclusive of studies through George Washington University, George Mason University, and the U.S. Supreme Court Historical Society.

Throughout all of this time, Judge Kotulski has continued to deepen her understanding of rules-making engagement in the context of international law arenas with her profound understanding of the procedures in part arising out of the legacy of the American Bar Association's Rule of Law communities (currently overseen by former Justice Stephen Breyer). International Attestations, LLC has several other forthcoming projects, including supporting the Honorable Kotulski in her efforts to serve as an advocate at international courts with an aspiration to continue to serve as a judge and an arbitrator. Some say she may even be amongst the candidates for the next ICJ judge for the United States of America.

TABLE OF AUTHORITIES

U.S. Constitution (not *in exclusio*)

Art. I, §8, cl. 3 (commerce)
Art. II, §2 (Treaties)
Art. III, §2 (cases and controversies)

Rules

Fed. R. of Appellate Procedure (2025).
Rule 15. Review of Enforcement of an Agency Order—How Obtained; Intervention.

Fed. R. of Bankruptcy Procedure (2025).
Rule 2002. Notices.
Official form 101. Voluntary Petition for Individuals Filing for Bankruptcy.
Official form 106C. Schedule C. The Property You Claim as Exempt.

Fed. R. of Civ. Procedure (2025).
Rule 7.1. Disclosure Statement.
Rule 26. Duty to Disclose; General Provisions Governing Discovery.
Rule 41. Dismissal of Actions.
Rule 45(b). Subpoena (Service)
Rule 45(c). Subpoena (Place of Compliance)
Rule 81. Applicability of the Rules in General; Removal Actions.

Fed. R. of Criminal Procedure (2025).
Rule 17. Subpoena.

Fed. R. of Evidence (2025).
Rule 609. Impeachment by Evidence of a Criminal Conviction.
Rule 707. Machine-Generated Evidence.

International Court of Justice Selected Jurisprudence

1. *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Iran v. United States of America).*
2. *Applicability of Art. VI, Section 22 of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion of 15 December 1989.*
3. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Order of 15 October 2008.*
4. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. UAE), Judgement of February 4, 2021.*
5. *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Judgment of 8 November 2019 (Preliminary Objections).*
6. *Application of the International Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007.*
7. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment of 3 February 2015.*
8. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment of 19 December 2005.*
9. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda, Judgment of 9 February 2022.*
10. *Certain Iranian Assets, Judgment of March 30, 2023*;
11. *Certain Iranian Assets, Judgement of March 30, 2024*, Separate Opinion of Judge ad Hoc Barkett (USA).
12. *Jadhav (India v. Pakistan), Judgment of 17 July 2019.*
13. *Obligations of States in Respect of Climate Change*, Advisory Opinion of July 23, 2025.

International Court of Justice Jurisprudence (continued)

14. *Obligations of States in Respect of Climate Change*, Written Statement of the Organization of the Petroleum Exporting Countries (OPEC), March 19, 2024.
15. *Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment of 20 April 2010.*
16. *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion of 28 May 1951.*
17. *Whaling in the Antarctic, Judgment of 31 March 2014.*

International Law Commission Rapporteur Regimes
(Chronological)

Representation of States in their Relations with International Organizations of a Universal Character (1959-1971: Abdullah El-Erian of Egypt).

Treaties concluded between States and international organizations or between two or more international organizations (1970-1982: Paul Reuter, France).

Status, privileges and immunities of international organizations, their officials, experts, etc. (1976-1992: Leonardo Días-González of Venezuela; Abdullah El-Erian of Egypt).

Responsibility of international organizations (2002-2011: Giorgio Gaja, Italy).

U.S. Supreme Court Jurisprudence

Bost v. Illinois State Board of Elections, Oral Argument Transcript, Kagan Question (2025).

Bost v. Illinois State Board of Elections, Slip Op. 24-568 (2026) (Jackson, J., dissenting).

Clinton v. New York, 524 U.S. 417 (1998) (Stevens, J.) (overruled by the Line-Item Veto Act).

Raines v. Byrd, 521 U.S. 811, (1997) (Rehnquist, CJ).

Other Sources

Federal rules of the English-Language nations listed in Constitutions Section (skimmed).

Testimonies of those on Civil Procedure (January 27, 2026).

Federalist Papers Numbers 9, 15, 17, 18, 19, 22, 23, 29, 36, 42, 45, 47, 59, 69, 81.

WRITTEN COMMENTS

I. INTRODUCTION: INTERNATIONAL ATTESTATIONS ENCOUNTERS THE JUDICIAL CONFERENCE RULE CHANGES FOR 2026

The Judicial Conference of the U.S. (2025-2026) has accomplished some great milestones with the current set of proposed rule changes. First and foremost, they showed that shifts in court proceedings can and will be modulated, that the concept of finality does not apply, and that experience with the rules can come in many forms.

Published for comment on August 15, 2025, all five (5) categories of the Rules have at least one change this year: Appellate (1), Bankruptcy (3), Civil (4), Criminal (1), and Evidence (2). The Appellate Rule change in Rule 15 (Review or Enforcement of an Agency Order—How Obtained; Intervention) provides avenues for improving on the trap of "incurably premature" by adding a new part (d) before intervention and fees (new [e] and [f]) that mandates party filing of a new or amended petition for review when challenging the disposition of a petition for rehearing, reopening, or reconsideration. The next change to the Rules is the Bankruptcy Rule 2002 (Notices) and the Forms 101 (Voluntary Petition for Individuals Filing for Bankruptcy) and 106C (Schedule C: The Property You Claim as Exempt). The first change to the Bankruptcy Rules provides for a change in the caption expected on filings as prescribed by Rule 1005 as arising in Form 416B. The form-based changes clarification for elicitation of Employer Identification Number (EIN) for business filers and not the business hiring the individual filer (Form 101) and clarification for "assets exempted" (Form 106C).

Like the Appellate and Bankruptcy rule changings, no oral proceeding arose for the Civil Rule 81(c) concerning whether and when to consider a jury demand (if at all) after removal from the state courts to federal courts, in particular, should be in by the Rule 38 deadline. From the testimonies attended by Judge Kotulski,[2] the participants had a robust consideration of Rules 7.1, 41 and 45 concerning business organizations and remote testimonies, while Rule 26 on claims based as opposed to actions-based dismissals were merely touched upon. The Committees for Evidence and Criminal Rules also gave the public the opportunity to be heard in oral testimonies. The Criminal Rule proceedings centered on Rule 17 subpoena authority with an analysis of the materiality standard, application to proceedings other than trial, codification of a standard of likely admissible, requisites for motions and orders, and issues pertaining to *ex parte*, production, disclosures, and clarification of proceedings. There were two proposed Evidence Rules, including one considered herein about machine-generated evidence admissibility in Rule 707 as well as Rule 609 concerning when and how to question the validity of criminal defendants. Some themes relevant in the rules are 1. reliance on reference to other rules as the manner for which to incorporate the change (Appellate 15, Bankruptcy 2002, Civil 81, Civil 41, Civil 45, Civil 26), 2. Responses to technological impacts of procedure (Civil 26, 45, Evidence 707), and 3. Subpoena mechanisms (Civil 45, Criminal 17).

The committees for each are comprised of legal professionals from government agencies and courts, law firms of varying sizes from sole practitioner to large practices, private corporations, think tanks, and non-profit organizations. The testimonies, on the whole, came from individuals that have a range experience in the U.S. Courts, but almost all had some experience with those systems.

[2] This may change to all testimonies if transcripts are published before comment is made.

By the time testimony was provided for Civil, Criminal (2), and Evidence (20), Civil comments were the most prolific at 150.[3] Evidence had two days of testimony on January 15 and 29, 2026, Criminal and Civil had one day each on January 22 and 27, respectively.[4] Judge Kotulski sought and was permitted to give testimony with International Encouragements, the outline for which she transmitted on January 13, 2026.[5] Her Civil Rules testimony reflected the comments herein concerning the judicial conference in their getting claims with a caution about line-item vetoes, getting technology with cyber marshals and deputies, and getting business organizations. The preponderance of Judge Kotulski's testimony, entitled International Encouragements, centered on the shift to "business organizations" from "corporations" in Rule 7.1 by contextualizing them with three principal judgments and corresponding opinions and comments at the International Court of Justice (ICJ)[6] and her ongoing cautions concerning the International Law Commission (ILC) without an American[7] on that body. She lauded the Committee for seeing the importance of making that lexicographical shift and for being amongst the U.S. institutions that are showing compliance with the *Certain Assets* opinion.

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[3] Appellate 2 and Bankruptcy 5.

[4] The others, Appellate and Bankruptcy, were canceled due to a pending government shutdown.

[5] Judge Kotulski had originally sought to give testimony on all five bodies of rules, then there was a proposed government shut down so she parsed it down to two—for which she provided outlines. In the end, she gave testimony at the Civil proceedings and canceled her Evidence testimony on January 29, 2026.

[6] *Certain Iranian Assets, Judgment of March 30, 2023*; *Certain Iranian Assets, Judgement of March 30, 2024*, Separate Opinion of Judge ad Hoc Barkett (USA); *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. UAE), Judgement of February 4, 2021*; *Obligations of States in Respect of Climate Change*, Advisory Opinion of July 23, 2025; *Obligations of States in Respect of Climate Change*, Written Statement of the Organization of the Petroleum Exporting Countries (OPEC), March 19, 2024.

[7] Argentina, Brazil, Chile, Ecuador, and Nicaragua are the nations from the current nations from the Americas. The U.S. has not had a member on the body, as stated in Judge Kotulski's testimony, "almost unprecedented" since the only other time of the International Law Commission's history was from 2007-2011. The other four permanent members France had one gap in 2017-2020, Russia had theirs from 1987-1991 & 2012-2014

During those proceedings, Judge Kotulski was influenced by a number of the testimonials,[8] even commenting during hers on the astuteness of Tobi Millrood's excellent description of the distinguishability between procedural and substantive location of remote witnesses and the judges who hear the cases,[9] and taking the opportunity to show Exxon Mobil through Mr. Levy some of her observations about the well-rounded written statement at the ICJ by the Organization for Petroleum Exporting Countries (OPEC) in the context of the *Climate Change Opinion*.[10]

Four of the five rules were considered during the Civil Rules testimony. The Rule 7.1 comments centered on instructions for judge recusal (Levy), informal and formal conduct of business (Levy), third party litigation (Allman), conflicts of interest (Allman, Levy, Redgrave), direct/indirect clarification (Allman, Levy, Redgrave), and publicly-traded issues (Redgrave). Rule 41 was considered for its context with multiparty civil rights cases (Hendler) and statute of limitations (Hendler). Finally, the themes of Rule 45 centered on the benefits of live testimony, even when remote (Barnes, Dahl, Damour, Levy, Millrood). There need to be "safeguards to ensure the integrity of trial" (Millrood), a Rules Enabling Act issue (Levy), and Subpoena and Process Service Power Issues (Levy, Varlack).

[8] Judge Kotulski attended the testimonies of Thomas Allen (retired General Counsel of BASF) and Jonathan Redgrave (Redgrave LLP) discussed Rule 7.1 and 45, Scott Hendler (Hendler Flores Law) and Tobi Millrood (Kline & Specter) considered Rules 41, with the latter also looking into Rule 45 along with Lauren Barnes (Public Justice), Xiomara Damour (Mayer Brown), Alex Dahl (Lawyers for Civil Justice), Robert Levy (Exxon Mobil), Tiega Varlack (Varlack Legal Services) and Rachel Downey (Hagens Berman). Due to other obligations that day, Judge Kotulski was unable to attend Navan Ward of Beasley Allen, Steven Fleischman of Horvitz & Levy, Brian Fitzpatrick of Vanderbilt, Matthew Moeller of the Moeller Firm, Mary Novacheck of Nelson Mullins, John Southerland of Huie, Fernambucq & Stewart (she heard the end of his testimony), and Rachel Downey (she heard the beginning of her testimony).

[9] Attorney Millrood noted that procedurally witnesses are likely considered in their place of testimony, while substantively the testimony takes place in the place of the judge. He was giving testimony for the American Association for Justice.

[10] Judge Kotulski offered to receive questions through February 10, 2026, at which time she planned to upload her comments.

From the Committee,[11] chaired by Judge Sarah Vance, many of the questions came from Andrew Bradt, Judge Lauck Rick Marcus, Judge Vance, and David Wright. Some of Mr. Bradt's questions centered on formal and informal business conduct (Levy), the problematics of Rule 43 (Levy), and dismissing a party from litigation without dismissing claims against the party (Hendler). Mr. Marcus was concerned with matters like the cost of Rule 43 compliance (Levy), ambiguity of party dismissal in Rule 41 (Levy), place of testimony (Millrood), prior order requirement (Allman), and the implications of the Kirkland decision in rule 45 proceedings (Redgrave). Judge Lauck was posed questions about remote live testimony qualitative differences (Redgrave), and Judge Vance touched upon questions of ambiguity (Redgrave), acquisition of subpoenas without approval (Millrood), and codes of conduct (Levy).[12]

[11] The Chairs influencing these Rules were the Honorable Robin Lee Rosenberg (U.S. District Court, Southern District of Florida) and the Honorable Sarah S. Vance (U.S. District Court, E.D. Louisiana). The 2025-2026 Reporter and Associate Reporter were Richard L. Marcus (University of California, College of Law, San Francisco, California) and Andrew Bradt (UCAL Berkeley, Berkeley, California), and the members were Honorable Cathy Bissoon (U.S. District Court, Pittsburg, PA, W.D. of Pa.), Honorable Jane Bland (Supreme Court of Texas, Austin, Texas), David J. Burman, Esq. (Perkins Coie, LLP, Seattle WA), Honorable Annie Christoff (U.S. District Court, W.D. Tenn.), Professor Zackary Clopton (Northwestern U., Pritzker School of Law, Chicago, IL), Honorable David C. Godbey, U.S. District Court, N.D. TX), W. Mark Lanier, Esq. (The Lanier Law Firm, Houston, TX), Jocelyn D. Larkin, Esq. (Impact Fund, Berkeley, California), Honorable M. Hannah Lauck (U.S. Dist., E.D. Virg.), Honorable R. David Proctor (U.S. Dist., N.D. of Alab.), Honorable A. Marvin Quattlebaum, Jr. (U.S. Court of Appeals for the Fourth Circuit), Honorable Manish S. Shah (U.S. Dist., N.D. Il), Brett A. Shumate, Esq., AAG (ex officio) (U.S. Department of Justice, Washington, D.C.), David C. Wright, III (Robinson, Bradshaw, Hinson, P.A., Charlotte, NC). Joseph M. Sellers, Esq. (Cohen, Milstein, Sellers & Toll) was no longer on the committee. Liaisons to the Committee were the Honorable D. Brooks Smith (U.S. Court of Appeals for the Third Circuit) and Honorable Catherine P. McEwen (U.S. Bankruptcy Court, M.D. Fla.), and the consultant and clerk of court representative were, respectively, Professor Edward H. Cooper (Michigan Law, Ann Arbor, MI) and Thomas G. Bruton (U.S. Dist. Court, Dist. N.D.).

[12] Mr. Wright asked questions as well, the substance for which are not clear in Judge Kotulski's notes.

It is in this context that Judge Kotulski and International Attestations is getting principal encouragements to the Rules Committees for Civil and Evidence. First, there are considerations of what—if any—applicability the jurisprudence of line-item vetoes may have on finalizing the development of the Claims- versus Actions-based dismissals (Civil Rule 41). Next, the comments delve into commendations and cautions for perfecting legal terms of arts like Business Organizations (Civil Rule 7.1). The final thing to get to is technology, whether and how to account for new technology in remote testimonies (Civil Rule 26 and 45) as well as machine-based evidence (Evidence Rule 707).

II. PRINCIPAL ENCOURAGEMENTS BY INTERNATIONAL ATTESTATIONS

The principal comments by International Attestations centers on encouraging the Judicial Conference for getting claims, getting business organizations, and getting technology by reviewing and revising certain civil and evidence rules.

A.)Getting Business: Commendations & Cautions for Better Perfecting Legal Terms of Art through the Use of "Business Organizations" (Civil Rule 7.1)

Organizational and corporate discourse buttresses the analyses of the Constitution. The Government is considered in the context of its organization, Federalist 23, and the Union of the nation has an organization that is intimate and wiser than the ancient Greeks. Federalist 18. Indeed, all branches of government and the many States have a prance with the organization in the words of the Federalist drafters pursuant to the conception of "the organization of the national government" Federalist 59 (Concerning the Power of Congress to Regulate the Election of Members). The Founders speak of the "distinct and independent organization of the Supreme Court" Federalist 81 (The Judiciary Continued, and the Distribution of the Judicial Authority) as well as its "organization of the judicial power" corresponding in the States. Federalist 45 (The Alleged Danger from the Powers of the Union to the State Governments Considered). In one instance, the mass of the judiciary was even compared to taxation powers! Federalist 36. "Corporate bodies" are described in the Real Character of the Executive. Federalist 69. The military's organization (and discipline) is considered in the context of its beneficial effects on the science of war. Federalist 29. And, of course, Congress is considered an organization as well. Federalist 22.

"The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former." Federalist 45 (The Alleged Danger from the Powers of the Union to the State Governments Considered). Organization in Number 47 as well, but Number 42 says that heads of the substates are a distinct class. State and governments in their corporate in opposition to their collective capacities. Federalist 15. State's interior organizations with heightened military laws shows a "vice of the constitution" and the "deformities of a political monster" when ill-organized. Federalist 19. The "assemblage of societies" in a confederate republic must protect the separate organization of the members—lest abolition arise! Federalist 9. And even at the micro-sub-state level…Officers of corporations are listed as amongst officers of counties and towns. Number 45.

This is not exclusive to the United States of America. There even appears to be a warning to other nations forming constitutions—the U.S. having the eldest in all the lands of the world and standing as the inspiration for scores of all other nations. Federal constitutions—even risk over-organization—as it should be easy to give them liberty. Federalist 17. And there is a lesson when giving them…Mr. Hamilton…death, perhaps? Heck, he wasn't the only one writing on corporations and organizations. Madison had 8 to his 14 mentions.

Concerning Business Organizations in Rule 7.1, International Attestations presents commendations and cautions to the Civil Rules Committee. First, the progression of Rule 7.1 indicates compliance with international law, mores and standards concerning corporates qua "business organizations."

Many International Court of Justice cases have considered organizational and corporate measures. At testimony, Judge Kotulski discussed two contentious—*Certain Assets* (Iran v. USA) and *Racial Discrimination* (Qatar v. UAE)—and one advisory opinion—*Climate Change Obligations*. [13] There are indeed several others to consider in the context of the distinguishability and overlapping definitions of the two terms of art in the international realm.[14] But there's many other cases. Of the 46 cases considering corporations in some fashion, corporate comes through in a variety of ways. "Corporation" is used when "incorporating" treaties and national or subnational bodies, and even when considering what's happening "behind the corporate veil." Whereas organization clearly denotes beyond government. Making sure to understand that corporations may well be important to keep in the mix as of now international organizations in the international legal regime are intergovernmental organizations as opposed to private organizations.

The U.S. did not fare well in the minds of the international legal community in *Certain Iranian Assets*. Our nation was found to fail to meet obligations in a treaty of amity with Iran, and we have been ordered to compensate Iran through an agreement. And any questions of such compensation might be brought back to the Court. Of the four former Presidents of the Court giving separate opinions, Judge Tomka (Serbia)—the longest currently serving member—made note that Iran does not explain why corporate form should be inviolable or unpierceable. Judge Barkett (USA) responded to one of the seeming violations of the nation by stating that "Corporate status should be recognized [to] assure [the] right [of] foreign corporate entities…[to] free access [to] courts [to] collect debts, protect patent rights, enforce contracts, etc."

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[13] *Certain Iranian Assets, Judgment of March 30, 2023*; *Certain Iranian Assets, Judgement of March 30, 2024*, Separate Opinion of Judge ad Hoc Barkett (USA); *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. UAE), Judgement of February 4, 2021*; *Obligations of States in Respect of Climate Change*, Advisory Opinion of July 23, 2025; *Obligations of States in Respect of Climate Change*, Written Statement of the Organization of the Petroleum Exporting Countries (OPEC), March 19, 2024.

[14] Of the 46 cases considering coropr,

Qatar v. United Arab Emirates did not get to the merits, in part, because of the media corporations indicating that they were not being racially discriminant against Qataris in the UAE. Although they have proceeded to race on the merits in other cases, the ICJ did not consider that the UAE was culpable. Our nations Courts and Corporations may well have been lured to let the United States of America Government of 2016-2023. Some of those corporations are now backing the current presidential regime, which may not bode well for the Jerusalem case. That said, the Nobel Prize for Peace may well go to a Democratic leader if they can sway corporations to protect him even though the Republican discord may well have been associated with the loss at the ICJ for the U.S.A. That written, International Attestations strongly believes that Judge Kotulski—with her particular set of professional and personal experiences and expertise—would have helped the U.S. win the case, and hopes she can get to prove that with future endeavors.

These two contentious cases have led up to *Climate Change* Opinion, in which nearly 100 nations of the United Nations and several international organizations participated. The opinion of the Court considered the environmental concern in the context of obligations and consequences of States, even providing a pathway for some business entity participation in the discourse. Obligations were formed under the treaty, protocol and agreement frameworks, international law, environmental treaties, law of the sea and sea level, and human rights law. Consequences concerning climate change context (attribution, causation, underlying obligations) and wrongful acts (performance, cessation and guarantees of non-repetition, reparation), and reparation duties (restitution, compensation, and satisfaction). So it's not surprising that so many nations wished to participate in the discourse.[15] Most notably, the Organization for Petroleum Exporting Countries (OPEC) showed a good-faith concern not just about corporate responsibility but a duty to humanity.

[15] Another example of an opinion with extensive involvement of the United Nations community members arose during the Unilateral Declaration of Independence for Kosovo. Perhaps indicating a precursor for Ukraine, though they may have preempted it by filing both in the International Criminal Court (ICC) and ICJ at the commencement of hostilities in 2022.

"Organizations" has almost from the start been a pressing topic at the International Law Commission (ILC), which is responsible for the development and codification of international law. Right now, the "international organization" topics of note concern the Settlement of international disputes to which international organizations are parties, which has August Reinisch (Austria) as the special rapporteur responsible for managing the continued research progress of the matter in the ILC.[16] Since Giorgio Gaja's "Responsibility of International Organizations," responsibility has been the international topic *du jour*.

And it seems that with Certain Iranian Assets, that topic is heading towards States.

This development of "organizations" at the international level, that may be instructive through analogy, arose under the direction of Paul Reuter with "Treaties concluded between States and international organizations or between two or more international organizations." This treaty is so narrow that perhaps it barely has consequence or affect. It comes through in part with its non-retroactivity provision. This may be instructive for "business organizations." And while we do not have a member at the ILC, we now have a relatively new Judge on the ICJ. So we need to be on our best behavior…

[16] Treaties concluded between States and international organizations or between two or more international organizations (1970-1982: Paul Reuter, France). Others have been (Chronologically): Representation of States in their Relations with International Organizations of a Universal Character (1959-1971: Abdullah El-Erian of Egypt); Status privileges and immunities of international organizations, their officials, experts, etc. (1976-1992: Leonardo Días-González of Venezuela; Abdullah El-Erian of Egypt); Responsibility of international organizations (2002-2011: Giorgio Gaja, Italy). Of late, the last is oft-quoted, particularly since the special rapporteur became a member of the ICJ from 2012-2021.

B.)Getting Claims: The Line-Item Veto May Be Good Law to Look to in Claims Versus Actions Based in Civil Rule 41

In the ICJ context, what we would have once called "line-item vetoes" arise with each individual claim being decided upon. This makes for a clear pathway to getting to the merits most of the time when cases are brought to the ICJ.

The jurisprudence dedicated to the line-item veto may well encourage the Judicial Conference of the U.S. as well as Congress to provide for better-improved claims-based methods for proceeding with cases in the U.S. Courts systems given proposed changes to Civil Rule 41.

Although initially dismissed for lack of standing reasons in a U.S. substate consideration of the line-item veto, whereby members of Congresses did not have sufficient personal stake for concrete injury to arise to Article III standing, Chief Justice Rehnquist discusses the concept in dicta in the context of all other types of vetoes such as Tenure of Office Act, one-House, pocket, and others done by Presidents Wilson, Grant, Cleveland, Coolidge, and others. *Raines v. Byrd*, 521 U.S. 811, (1997). This need to switch to a more specified dismissal of matters could be foreseen in Justice Stevens as well as Justice Breyer decisions. Perhaps Justice Thomas recalled that standing discourse whence providing his opinion about the Appropriations Clause in relationship to the Consumer Financial Protection Bureau. This discourse even has some appearance with the third decided opinion for the 2025 term, with regard to consideration of candidates as direct objects. *Bost v. Illinois State Board of Elections*, Slip Op. 24-568 (January 14, 2026) (Jackson, J., dissenting), Oral Argument with Kagan Question. Perhaps the principal case that seems to be well-settled is *Clinton v. New York*, 524 U.S. 417 (1998) (Stevens, J.) (overruled by the Line-Item Veto Act).

In sum, I encourage, make all due haste for such claims-based attention. It's time to better train those negotiating the U.S. Courts—advocates, parties, judges, and staff—to be prepared for the international implications of their decisions – procedural, substantive, or otherwise.

C.) Getting Technology: Whether and How to Account for New Technology (Civil Rule 26 & 45; Evidence 707)

Three of the rules considered by International Attestations respond to technological advances: Civil Rule 26 (Express Statement on Remote or In Person Testimony), Civil Rule 45 (Place for Remote Testimony (Rule 45), & Evidence Rule 707 (Machine-Based Evidence Admissibility). Judge Kotulski is no stranger to policy, procedural, and scholastic approaches to the cyber world. Judge Kotulski has focused and enhanced her expertise on cyber matters since attending a closed/cleared meeting at Georgetown's School of Diplomacy in 2011, helping to shape and take a class at Iowa Law in 2013 and 2014, influencing Cyber Endeavors and military engagements[17] at the Naval Postgraduate School (2014) and MITRE (2015), and continuing her 2014 argument for a cyber treaty with scholarship conducted privately, Doc. 3.5 (Wither the Cyber?).[18] In fact, I posited whether or not separate matters pertaining to cyber may be called for before the most recent UN Convention against Cybercrime (2024) came out. A gap still remains for much of the cyber realm in the civil worlds, and, perhaps, an opportunity passed to make a more all-inclusive treaty dedicated to cyber matters.

[17] Making note of this during her testimony.
[18] This publication came out around the same time as the Cyber Crime Treaty, which exclusively addresses Criminal Matters.

As Judge Kotulski stated in her testimony, there are more things that still need to get done concerning remote testimony. She encouraged the committees to begin thinking about "cyber marshalls" and "cyber deputies" that have the jurisdiction to wrangle in all the moving parts. These moving parts must be wrangled when the wrangling is ready in order to get appropriate judicial oversight on the matter.

Case in point, Evidence Rule 707 seeking machine-generated evidence admissibility is not ripe for implementation. Unless the Court wishes to secure scores more extraneous litigation based on potentially inefficient rules, the Judicial Conference might be best-suited to consider further the implications of such technologically-generated evidence. Because Rule 707 is so referential to Rule 702, perhaps the latter may become that which is commented upon and all revisions be rolled into the application of that rule. The way it stands at present, it seems like no rule at all. No matter what the Civil Rules Committee puts out there, the subject of the rule is ripe to generate litigation, confusion, and controversy. As such, the goal may be to limit the volume of litigation, confusion and controversy by bringing the rule to market when it is ready, not by bringing it to market to vet what that litigation, confusion and controversy yields.

Indeed, three years is a goodly amount of time to review a rule ahead of publication, but one more year may yield a more thorough understanding of how to attend to this particular type of evidence.

Or maybe you have determined from your review that Rule 702 sufficiently addresses such evidential standards for admissibility. In which case, it's better not to single it out and it's better to stick to the old mainstays and their litigation, confusions and controversies

III. **CONCLUSION**

The Rules Committees of 2026 are showing a strong proclivity of "getting it." They are getting it right, getting it done, and getting to the heart of the matter in getting claims, getting business organizations, and getting technology. There are some matters that need adjustment—but now it seems the Court is getting it.

DOCUMENTS LIST

Document 1.	Honor Use Licensing	D3
Document 2.1	Original Outline	D6
Document 2.2	Notes for January 27, 2026: Civil rules 7.1, 26, 41, & 45	D7
Document 3	Relevant IA Articles (Most Recent First) by the Hon. Melissa A. Kotulski	D12
Document 3.1	UNSC '26: Naturally Casting Latvia's Wooden Breadbasket & Aid Kit (January 12, 2026)	D17
Document 3.2	International Narcotics & Law Enforcement Bureau & ICJ 2022 Redux (November 14, 2025)	D23
Document 3.3	Outside Testimony Submission Dates are Here! (May 5, 2025)	D26
Document 3.4	Analysis of the UN Security Council's Class of 2024 (January 30, 2024)	D34
Document 3.5	U.S. Supreme Court: Wither the Cyber? (July 25, 2023)	D34
Document 3.6	United Nations & Global Counter-Terrorism Strategy (June 13, 2023)	D37
Document 3.7	Obligations in Advisory Opinions at the ICJ (April 25, 2023) & Consequences in ICJ Advisory Opinions: Questions & Holdings (May 16, 2023)	D43
Document 3.8	Comment on Supreme Court Rules (February 7, 2023)	D57
Document 3.9	Nationality & Hoops at Court (May 17, 2022)	D64

Document 4	Notes to support comments (Internal Document)	D95

Document 1. International Attestations & Honor Use Licensing

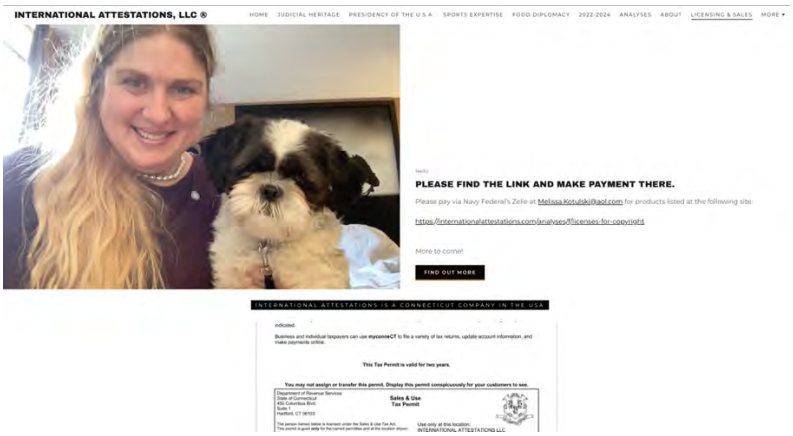
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Document 2. Testimony (Civil Rules 7.1, 26, 41, 45; Evidence 707) Outline, Notes on IA Testimony, Notes on Other Testimonies

Document 2.1	Original Outline	D6
Document 2.2	Notes for January 27, 2026: Civil rules 7.1, 26, 41, & 45	D7

Document 2.1 Original Outline

INTERNATIONAL ENCOURAGEMENTS (CIVIL)

(January 27, 2026)

International Encouragements for Proposed Changes to the Federal Rules of Civil Procedure

BIOGRAPHICAL STATEMENT

RULES TO CONSIDER IN THE INTERNATIONAL CONTEXT

- Nongovernmental business organizations (Rule 7.1)
- Narrowing Voluntary Dismissal to Claims Rather than Entire Action (Rule 41)
- Remote Testimony/Technological
    1. Express Statement on Remote or In Person Testimony (Rule 26)
    2. Place for Remote Testimony (Rule 45)

ENCOURAGEMENTS (EVIDENCE)

International Encouragements for Proposed Changes to the Federal Rules of Evidence

Machine-Generated Evidence Admissibility (Rule 707) Outline: No Rule At All?

a. Biographical Statement (Self, International Attestations, cyber/tech law expertise)
b. Litigation, confusion, controversy
c. No Rule at All? Comment

Document 2.2 January 27, 2026: Civil Rules 7.1, 26, 41, & 45

Original Outline
(Submitted January 13, 2026)

INTERNATIONAL ENCOURAGEMENTS (CIVIL)

(January 27, 2026)

International Encouragements for Proposed Changes to the Federal Rules of Civil Procedure

BIOGRAPHICAL STATEMENT

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- Remote Testimony/Technological
    1. Express Statement on Remote or In Person Testimony (Rule 26)
    2. Place for Remote Testimony (Rule 45)

Notes from Hon. Kotulski's Testimony About Civil Rules 7.1, 26, 41, 45

ENCOURAGEMENTS (CIVIL)

(January 27, 2026)

International Encouragements for Proposed Changes to the Federal Rules of Civil Procedure

A. **Gratitude to Organizations**: Rules Committee Staff, Administrative Office of the Courts, and Civil Procedure Team

B. **Introduction to her**: 20 years of diplomacy; Expert in International Court of Justice, ILC, CAS, UNSC; U.S. Supreme Court; codification and development of international law as presented by the ILC and other organizations. Commend Committee for their compliance with international law for places going against USA.

C. **Substantive Remarks**

1. **Claims Dismissal Rather than Action as a Whole** – line item veto days may come back to haunt folks with this rule. Narrowing Voluntary Dismissal to Claims Rather than Entire Action (Rule 41)

2. Remote Testimony/Technological (Rules 26 & 45). Express Statement on Remote or In Person Testimony (Rule 26). Place for Remote Testimony (Rule 45). The concept of a **cyber marshal and deputy** for each of the remote geographic locations in a remote court to be linked for keeping such testimonies legitimate, authenticated, and included.

3. Nongovernmental Business Organization (Rule 7.1)
    a. Three principal ICJ cases: Certain Assets – I see this rule change as one of the methods of **compliance** with the Iranian case against the US (one of two currently at the ICJ). Read out Barkett quote: Corporation status comes up in III, para. 1 with instructions indicating "Corporate status should be recognized [to] assure [the] right [of] foreign corporate entities…[to] free access [to] courts [to] collect debts, protect patent rights, enforce contracts, etc."
    b. Qatar v. United Arab Emirates issues of media organizations.
    c. Climate Change Advisory Opinion. Allowed for some business entity participation in the conversation. Most notably, the Petroleum Exporting Countries, showing a concern not just concerning corporate responsibility but a duty to humanity, and, to the extent that it is a business, International Union for the Conservation of Nature

4. Questions here or by February 10, 2026 over the phone or in writing. My contact information is at Tab 5.

Notes from the Testimonies of Others (18) on January 27, 2026[19]

Rule 7.1 Nongovernmental Business Organization (4)

A. (3) Thomas Allman a Retired General Counsel of BASF Corp. (Rule 7.1 & 45)
B. (4) Jonathan Redgrave of Redgrave LLP (Rule 7.1 & 45)
C. (5) Melissa Kotulski of International Attestations (Rules 7.1, 26, 41 & 45)
D. (14) Robert Levy of Exxon Mobil (Rules 7.1, 26 & 45)

[19] Number in the front of the names in parenthesis is place in the lineup for testimonies for the day.

Rule 26 Express Statement on Remote or In Person Testimony (2)

A. (5) Melissa Kotulski of International Attestations (Rules 7.1, 26, 41 & 45)
B. **(14) Robert Levy of Exxon Mobil (Rules 7.1, 26 & 45)**

Rule 41 Narrowing Voluntary Dismissal to Claims Rather than Entire Action (3)

A. (1) Scott Hendler of Hendler Flores Law (Rule 41)
B. (2) Tobi Millrood of Kline & Specter (Rule 41 & 45)
C. (5) Melissa Kotulski of International Attestations (Rules 7.1, 26, 41 & 45)

Rule 45 Place for Remote Testimony (17)

A. (2) Tobi Millrood of Kline & Specter (Rule 41 & 45)
B. **(3) Thomas Allman a Retired General Counsel of BASF Corp. (Rule 7.1 & 45)**
C. **(4) Jonathan Redgrave of Redgrave LLP (Rule 7.1 & 45)**
D. (5) Melissa Kotulski of International Attestations (Rules 7.1, 26, 41 & 45)
E. (6) Lauren Barnes of Public Justice (Rule 45)
F. **(7) Mary D'Agostino of Hancock Estabrook (Rule 45)**
G. (8) Xiomara Damour of Mayer Brown (Rule 45)
H. **(9) Alex Dahl of Lawyers for Civil Justice (Rule 45)**
I. (10) Navan Ward of Beasley Allen / American Association of Justice (Rule 45)
J. (11) Steven Fleischman of Horvitz & Levy (Rule 45)
K. (12) Brian Fitzpatrick of Vanderbilt Law School (Rule 45)
L. **(13) / Max Heerman of Medtronic (45) Not present**
M. **(14) Robert Levy of Exxon Mobil (Rules 7.1, 26 & 45)**
N. (15) Matthew Moeller of The Moeller Firm (Rule 45)
O. (16) Mary Novacheck of Nelson Mullins (Rule 45)
P. (17) John Southerland of Huie, Fernambucq, & Stewart (Rule 45)
Q. (18) Tiega Varlack of Varlack Legal Services (Rule 45)
R. (19) Rachel Downey of Hagens Berman (Rule 45)

Document 3. Relevant IAUSA Articles (Most Recent First) by the Hon. Melissa A. Kotulski

Document 3.1	UNSC '26: Naturally Casting Latvia's Wooden Breadbasket & Aid Kit (January 12, 2026)	D12
Document 3.2	International Narcotics & Law Enforcement Bureau & ICJ 2022 Redux (November 14, 2025)	D17
Document 3.3	Outside Testimony Submission Dates are Here! (May 5, 2025)	D23
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Document 3.1 UNSC ’26: Naturally Casting Latvia’s Wooden Breadbasket & Aid Kit (January 12, 2026)

The United Nations Security Council (UNSC), per usual, has five new members in 2026-2027. Joining last year's rising class (Denmark, Greece, Pakistan, Panama, and Somalia) and the permanent members (China, France, Russia, the United Kingdom, and the United States of America), Bahrain, Colombia, the Democratic Republic of the Congo, Latvia, and Liberia officially began their two-year tenure on January 1, 2026. Latvia is the freshman in this batch, which leaves it ripe to highlight preparatory measures for the Presidency--a change that happens on a monthly-rotational basis based on placement in the English-language alphabet. It remains to be seen who will be elected to replace this last batch of five at the end of 2026 to determine their final year on the UNSC, by then Latvia will be well-trained in how to coordinate international security.

It will have also likely have served what will be its first and to that time only term as the President of the UNSC.

Latvia in the Context of the ICJ, UNGA, and the UN Security Council

With current top exports of natural gas, packaged medicine, wheat, wood, broadcasting equipment, Latvia is slated to serve as the UN Security Council's (UNSC) President in November. This will be the first time the nation has led any of the major parts of the United Nations--never having a case or judge at the International Court of Justice (ICJ) and never serving as the President of the General Assembly (UNGA) or Economic and Social Council (ECOSOC). The UNSC is a member of the UN System and it's beneficial to be prepared for what Latvia's diplomats and other service members may put on their presidential docket by looking both within the annals of that principal organ in the context of at least two other Charter-based bodies: the International Court of Justice (ICJ) and the General Assembly (UNGA)--which is the body that most often has fed the ICJ with requests for advisory opinions on matters of international law. UN Charter Article 96(1). Still, Latvia may well serve under one of the rare presidencies when the UNSC calls forth its charter-fueled prerogative to request advice on "any legal question."

Like Latvia, other nations amongst the UN Class of 2026 colleagues have only had one other term at the UNSC. Somalia had its freshman term from 1971 to 1972, while Bahrain's was 1998-1999 and Liberia only had one year (1961, without a presidency) for its previous and only other tenure as a non-permanent member of the UNSC. In fact, Bahrain is a great nation for Latvia to look upon as they sought out pacific settlement of dispute help from Guyana, another place closely-situated to your nation's populace. Mohamed Shahabuddeen (Guyana) was Bahrain's selection to serve for the nation as a judge *ad hoc* for its ICJ case on Maritime Delimitation and Territorial Questions defended against Qatar. Judge Shahabuddeen also served as a permanent member of the Court. Still, despite having four cases, Bahrain has never selected a judge ad hoc from its own populace (though they did have a member at the ILC from 1987-2006 with Husain M. Al-Baharna). This is dissimilar to Pakistan, which has had four (4) such judges from its nation and which has even declined to use its ICJ Rules-based Article 35 prerogative to select a judge to sit on the court.

So perhaps Greece, Somalia, Pakistan, & Panama are great nations that Latvia may also observe. Why? Amongst the other non-permanent members of this UNSC class, they each have had one judge serve as permanent members of the ICJ--though Panama has never had a case before the ICJ, perhaps in part because of its six terms at the UNSC (1958-1959, 1972-1973, 1976-1977, 1981-1982, 2007-2008, 2025-2026). Somalia's first case arose recently at the ICJ pacifically-settled against Kenya concerning Maritime Delimitation during the tenure of that nation's Judge Yusuf, whose term ended abruptly last year. With Latvia's first International Law Commission member this year, it bodes well for broadening that nation's ICJ horizons (judge candidacies) by being an advocate for developing and codifying international law with "Compensation for the damage caused by internationally wrongful acts" assigned to Mārtinš Paparinskis as the Special Rapporteur.

Latvians may be preparing to lead the world's security council with some of their own agendas in mind for the tenure of the presidency as well as what they will do after the nation has completed its term.

A Natural Gas Treaty Convention Held in Riga?

The world may be ripe for an international natural gas treaty and an obvious headquarters for the hypothetical treaty-body could be in Latvia's Riga. Such a treaty and treaty mechanism may be managed much in the vein of the Food and Agricultural Organization's (FAO) Headquarters in Rome, Italy--a culinary Mecca--and like the treaties of other commodities such as olive oil and table olives, coffee, sugar, coconuts pepper, cocoa, rice, tin, tea, rubber, jute and jute products, nickel, copper, grains and--perhaps most relevant to Latvia--tropical timber (4) and wheat (2). As a "producer member" as well as a "consumer member" of the Tropical Timber Treaty, Latvians stand uniquely situated to provide advice on the development of treaty provisions related to Natural gas. Tropical Timber Treaty, Art. 2(4) & (5). China, France, and the UK--other principal natural gas importers--may help with this treaty effort as well. An effort that will--if sparked--go beyond Latvia's tenure at the Security Council, which could light a grand legacy for posterity or leave smoldering ashes for which the nation will need to repair. Or both.

Ukraine as Europe's Breadbasket No Longer?

Ukraine, once Europe's Breadbasket, will be an interesting nation for Latvia to bring to the table. Latvians may benefit from not touching Ukraine at all during their November presidency--sending the message on their stance with their recent non-abstention, affirmative votes on Ukraine in the General Assembly.

Such silence could allow to stand what Latvia has stood with Ukraine.

Anything more may seem problematic with both Ukraine and Latvia competing for Wheat exports and with the former's war still raging on. Let Latvia's breadbasket open at the behest of other security powers, unless a major flareup happens leading up to or during Latvia's tenure as UNSC President. Beyond the region, this may also hold true to a lesser extent for Syria, another wheat importer with a somewhat heavy status on the Security Council docket. So perhaps all of the Security Council members can help the Freshman Latvia plan the year by making sure that the breadbasket of UN business in November may be dedicated more so to general resolutions like terrorism and maintenance of international peace or even other business pertaining to Sudan or Yemen.

In sum, Latvia is the world's next freshman whose first ever term as President will offer a great opportunity to enhance and embolden the nation. The best packaged medicine for ensuring peace for a region like Eastern Europe, indeed. Perhaps the marks of success for Latvia would be to broaden Europe's breadbaskets and work towards placement of a treaty headquarters in Riga dedicated to natural gas.

Supplement 1. The List of the Current UNSC Class by Presidency

This year's class, in order of presidency with the end of the nation's term in parenthesis:
January: Somalia
February: United Kingdom
March: United States of America
April: Bahrain (2027)
May: China
June: Colombia (2027)
July: Democratic Republic of the Congo (2027)
August: Denmark (2026)
September: France
October: Greece (2026)
November: Latvia (2027)
December: Liberia (2027)

No presidencies this year: Russia, Pakistan (2026), Panama (2026)

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January 13, 2026 at 12:45 p.m. EST, updated with Supplement on January 26, 2026 at 1:40 p.m. PST.
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(This appeal for funding is similar to almost all other posts)

Document 3.2 International Narcotics & Law Enforcement Bureau & ICJ 2022 Redux (November 14, 2025)

I intend to revise my Summer 2022 series on the International Narcotics and Law Enforcement Bureau (INL) of the U.S. State Department in the near future. I even put the previous entries in the 7-part regionally-nexused series up on SSRN, which is a nice academic marketplace of ideas where I place some of my older papers like my work on International Organizations and my note on Presidential Sites. I also have publication on Ireland in the International Review of Constitutional Reform.

Though I have had qualifications to do so, I have never worked for agencies like the National Archives and Records Administration (NARA) or the Environmental Protection Agency (EPA). In fact, I even declined an offer at a Presidential Library because the site's work was too focused a topic from which I had graduated and such a position did not provide substantial responsibilities reflective beyond such single vision of biography. Biography that I had mastered under the tutelage of a Pulitzer Prize winning biographer in the early 2000s when working for a historic site dedicated to a single woman and her family (across the street from Mark Twain's place in Hartford, Connecticut). You see, by the time of that lovely NARA employee's offer, I had analyzed multiple continents for their national systems since I worked for the International Narcotics & Law Enforcement Bureau (INL) of the U.S. State Department (State) in 2013-2014.

My State teams barely touched upon the "goods" associated with the first part of that bureau's title. In fact, my foci were on analyzing the nation-based compliance with international legal standards for justice systems--including the judicial, prosecutorial, custodial, and law enforcement prongs of such systems. That meant that I had already assessed how national court systems were acting for treaty compliance--becoming an expert by 2014. So when that inspirational Director asked me to be a marginal part of her local NARA site (all she could at the time), I politely declined because I was ready for international judging across state-lines which is beyond the scope of a single Presidential Library. We left on as amiable terms as the person for whom she ably protected his presidential heritage (a gentleman from the midwest who knew controversy, indeed), and she became a reference to the United Nations for me. She is currently in well-earned retirement.

And since that time, I have researched or visited NARA sites where I have admired many an employee--archivist, director, security guard and more. The same holds true for national court systems, though I have more intimate knowledge as I have ***done*** things like encourage cross-national dialogue on the topics of foreign affairs in their national courts since I was with my INL Bureau teams in 2013/14 and continued independently in 2022 with my 7-part series. In fact, such ***doing*** continues with my hope (that still holds true) for a Summit between the leaders of the constitutional courts of the Ukraine, Russia, and the USA--if the former two could keep their lead judges in place long enough to plan one, I guess. Things have been volatile for the judiciaries of both nations since Lebedev's passing and Kniaziev untimely resignation, perhaps the Russians and Ukrainians and all those in-between would be best served to recall the impressive U.S. District Court judge Margaret McKeown's American Bar Association Rule of Law caution in 2023 about protecting judges from

reprisals. Maybe the ICJ universe might benefit from review of her presentation.

This Ukraine-Russian discourse refers to another sub-series in my Academic Journal Posts.

https://internationalattestations.com/blog/f/ukraines-chief-justice-shows-the-travails-of-a-wartime-judiciary (Ukrainian Chief Justice & His Wartime National Judiciary)

https://internationalattestations.com/blog/f/russia-ukraine-a-us-moderated-dialogue-on-commonalities (Tear Down These Walls encouraging a dialogue on foreign affairs in the national courts of Ukraine, Russia, and the USA).

https://internationalattestations.com/blog/f/russia-the-usa-a-diplomatic-triumph-at-the-icj (An accolade given to the Russian & America judges that concurrently served as Vice-President and President of the ICJ)

As for the EPA, while I hear it's a swanky place to work (voted #1 of all U.S. government agencies), I have encountered it through Water Law, Air Quality Law, Brown Fields Lands, meteorological analyses, local and state interactions with Federal regional systems reporting to the EPA (particularly in Florida, Hawaii, New York, & Vermont, amongst others). And I have applied how environmental law works in the international realm since around the same time as the INL position when I worked at looking at Water Law in a California city in the context of regional, federal, and international law.

Since that time, a very cool summer (in so many ways) on the California coastline considering Pacific appropriative rights and desalination processes--in part--I have mastered the International Court of Justice's (ICJ) climate change and international matters concerning boundary measures across water lines. Just to say that upon doing such research, the law of equidistance may be a starting point, but less frequently the endpoint than the seeming golden rule of national water boundaries provides in ICJ jurisprudence. Just look to the Great Lakes Controversy in Africa, of which now-Judge Okowa (Kenya) helped the world see more in a recent recorded lecture that she gave at the United Nations. I, too, have some writings on the matter, which I hope helped the Office of Legal Affairs of the U.S. State Department and the United Nations in preparing for their work on the Advisory Opinion concerning Climate Change--and maybe even the Kenyan contingent had a glance at some of my writings. Judge Okowa did a fine job bringing her international brands to the marketplace, indeed, and I wish her the best in that position.

My analyses were published soon after the announcement of the opinion in 2023, the published ICJ Advisory Opinion emblazons the obligations more than the consequences...Perhaps the private industries presenting to the Court on the matter helped sway them away from such bottom-line crushers that oftentimes hold up good international industrial and commercial activity.

https://internationalattestations.com/blog/f/icj-advisory-opinions-questions-presented
https://internationalattestations.com/blog/f/consequences-and-advisory-opinions-at-the-icj

I have also considered the regional and state level environmental matters with the USMCA and the state-level courts of the U.S.A. (see below).
https://internationalattestations.com/blog/f/the-usmca-the-eca-government-involvement-public-participation
https://internationalattestations.com/blog/f/environmental-courts-at-the-state-level

Still, in order to stay current for my INL overlap with ICJ matters, I have compiled that seven-part series b as a reprint below to prepare for the updated version. The series focuses on the regional side of collaboration with the U.S. on federal law enforcement matters whilst also considering which nations in that cadre had activity at the ICJ.

Stay tuned for my forthcoming INL & ICJ analyses Redux...

*****
November 14, 2025 at 1:13 a.m., tidied up on January 19, 2026 at 11:00 a.m.

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Reprinted below INL Homecoming Pt. 1- Pt. 6b: Tuesday, July 12, 2022, 9:00 a.m.; Tuesday, July 19, 2022 at 9 a.m.; July 26, 2022, 9:00 a.m.; August 2, 2022, 9:00 a.m.; August 9, 2022, 9:00 a.m.; August 16, 2022, 9:00 a.m.; August 23, 2022, 9:00 a.m.

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INL Homecoming Pt. 1 -- Sub-Saharan Africa
INL Homecoming Pt. 2: East Asia & the Pacific
INL Homecoming Pt. 3 -- Europe & Eurasia
INL Homecoming Pt. 4 -- Middle East & North Africa
INL Homecoming Pt. 5 -- South & Central Asia
INL Homecoming Pt. 6a & 6b -- Western Hemisphere

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(1) Sub-Saharan Africa: https://internationalattestations.com/blog/f/an-inl-homecoming
(2) East Asia & Pacific: https://internationalattestations.com/blog/f/inl-homecoming-pt-2-east-asia-the-pacific
(3) Europe & Eurasia: https://internationalattestations.com/blog/f/inl-homecoming-pt-3—europe-eurasia
(4) Middle East & North Africa: https://internationalattestations.com/blog/f/inl-homecoming-pt-4--middle-east-north-africa
(5) South & Central Asia: https://internationalattestations.com/blog/f/inl-homecoming-pt-5--south-central-asia
(6a) Western Hemisphere: https://internationalattestations.com/blog/f/inl-homecoming-pt-6--western-hemispher
(6b) Western Hemisphere: https://internationalattestations.com/blog/f/inl-homecoming-conclusion

Document 3.3 Outside Testimony Submission Dates are Here! (May 5, 2025)

Hey all, please find the list of outside testimony submission dates for the House & Senate Appropriations Subcommittees. There is also a list of the emails and to whom you should address such testimony requests. I would be honored to hear how you do, and...if you'd like, I can help you collaborate on your testimony requests. Please find my rules publication as well as my census comment from last year.
Hit me up!
MK

Rules for US-AOC 2025 (Appellate, Bankruptcy, & Evidence): https://www.regulations.gov/comment/USC-RULES-AP-2024-0001-0369

Census Boundary Comments 2024: https://www.regulations.gov/comment/USBC-2024-0012-0004

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DUE DATES 2025
Senate Subcommittee Due Dates 2025 for FY 2026

- May 9, 2025: Senate Legislative Branch; House Commerce, Justice, Science & Related Agencies; House Homeland Security
- May 22, 2025: Senate Agriculture, Rural Development, Food & Drug Administration, & Related Agencies
- May 23, 2025: House Agriculture, Rural Development, Food & Drug Administration, & Related Agencies; House Energy & Water Development
- May 30, 2025: Senate Energy & Water Development; Senate Military Construction, Veterans Affairs, & Related Agencies
- June 13, 2025: Senate Commerce, Justice, Science & Related Agencies; Senate Labor, Health & Human Services
- June 15, 2025: Senate Homeland Security; Senate Interior, Environment & Related Agencies
- June 24, 2025: Senate Defense

- June 27, 2025: Senate State, Foreign Operations & Related Programs
- July 1, 2025: Senate Financial Services & General Government
- 7 days after the respective Departmental budget hearing of interest: Transportation, Housing & Urban Development.

Likely no longer available this year:

1. House Defense
2. House Financial Services & General Government
3. House Military Construction, Veterans Affairs, & Related Agencies
4. House Interior, Environment, & Related Agencies (4 April 2025)
5. House Labor, Health & Human Services, Education & Related Agencies (9 April 2025)
6. Legislative Branch (9 April 2025)
7. National Security, Department of State, & Related Agencies (21 March 2025)
8. Transportation, Housing & Urban Development

EMAIL LIST 2025
Senate Emails (Veterans not available at time of publication)

- agri@appro.senate.gov (Agriculture, Rural Development, Food & Drug Administration, & Related Agencies)
- cjs@appro.senate.gov (Commerce, Justice, Science & Related Agencies)
- def@appro.senate.gov (Defense)
- ew@appro.senate.gov (Energy & Water Development)
- finsec@appro.senate.gov (Financial Services & General Government)
- homelandsec@appro.senate.gov (Homeland Security)
- lhhs@appro.senate.gov (Labor, Health & Human Services, Education, & Related Agencies)
- int@appro.senate.gov (Interior, Environment, & Related Agencies)
- legislativebranch@appro.senate.gov (Legislative Branch)
- thud@appro.senate.gov (Transportation, Housing & Urban Development, & Related Agencies)

- SFOPS@appro.senate.gov (State, Foreign Operations, & Related Programs)

House emails

- ag.approp@mail.house.gov (Agriculture, Rural Development, Food & Drug Administration, & Related Agencies)
- cj.approp@mail.house.gov (Commerce, Justice, Science & Related Agencies)
- in.approp@mail.house.gov (Interior, Environment, & Related Agencies)
- ew.approp@mail.house.gov (Energy & Water Development & Related Agencies)
- hs.approp@mail.house.gov (Homeland Security)

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May 5, 2025, 7:05 p.m.
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Document 3.4 Analysis of the UN Security Council's Class of 2024 (January 30, 2024)

New England is well-known historically for having thrived during the Whaling industry's heyday. Though. the local and state curricula may vie in a different direction now, growing up this industry was drilled into our consciousness through things like use of blubber to fuel lamps and analysis of a haggard Captain's hunt of one of the beasts. That heyday was ultimately replaced by the FIRE industries--leading to the rise of the State's insurance industry as the topmost in the nation. And nowadays, some of the central pulls relate to history of the town as a place where a prison was situated and a couple of presidents visited .

This industry may be very important in the international context in the coming days. At least the International Court of Justice's (ICJ) analysis of it in 2014 with the case of Australia v. Japan, New Zealand Intervening. After the Court had established its jurisdiction, it held that Japan's permitting regime was not within those acceptable by the International Convention for the Regulation of Whaling (ICRW). Even though the ICJ found that Japan had complied with its obligations in some instances, Japan was told to revoke authorizations, permits and licenses in the instances where it was not in conformity with its obligations. Australia was protecting the seas from a commercial activity that harmed its interests.

With the first resolution of the year, protecting commercial activity began the conversation for the 2024 Class of the Security Council of the United States (See Supplement 1 for More Details About the Class of 2024 & Its Presidents; and check out my previous post in January 2023 for background on my analysis about UNSC Class of 2023).

UNSC CLASS OF 2024 & THE ICJ

First, contextualizing the current class in relationship to the International Court of Justice (ICJ) emboldens the concerns about activities in the oceans, including illicit activities in the seas.

Even though this year's class consists of a group of nations with sparing interaction with the ICJ...

While Ecuador, Malta, Mozambique & Switzerland (2023-2024) as well as Korea and Slovenia (2024-2025) have never had a judge on that Court, Japan, Algeria, Guyana and Sierra Leone have had seven. Algeria, Guyana, and Sierra Leone (2024-2025) have seen three great judges from their nations serve a total of thirty-six years on the Court, with an overlap between 1994-1997 when they all served. Algeria's Bedjaoui (1982-2001) was the only one among them to have sat at the helm of the Court. Though the other two judges, Shahabuddeen (1988-1997) and Koroma (1994-2012), enjoyed some time on the Court during Bedjaoui's tenure, neither was there during his Vice President (1994-1994).

Switzerland, ever the distinguishable nation throughout the world, as it has taken its first tenure at the UNSC, has only had three cases before the Court—none of which have been concerned directly with environmental matters—and they were discontinued, dismissed, or removed against the one-time neutral nation: Dominica (diplomatic envoy status in host states); United States (banking and property considerations); and Belgium (commercial airlines issues with international compliance with banking and debt-related matters).

The other three non-permanent nations in the UNSC Class of 2024 have one case at that Court and they all have a nexus to protecting, accessing, and lawfully utilizing natural resources (Ecuador, Japan, and Malta). This could get interesting should the General Assembly receive a response to its advisory opinion this year—not likely, but a possibility...

Ecuador's aerial herbicide spraying case against Colombia, although discontinued 17 September 2013, was initiated with a three-fold purpose of (1) acknowledgment for violation of international when allegedly causing human health, property and environmental damage; (2) indemnification of loss and damage arising from death or injury, property harm, human rights and livelihood violations, natural resource depletion, and costs from monitoring public health, human rights and environment; (3) order that Colombia respect sovereign & territorial integrity of Ecuador as well as prevent future harm through prevention of use and dispersal of herbicides.

The last two environmental cases of the nations from the current UNSC Class directly relate to the sea in some fashion.

First, Malta's continental shelf case against the Libyan Arab Jamahiriya provided two judgments—one which asserted Italy's inability to intervene in the case and the other determining equitable principles for drawing the continental shelf a equidistant from the low-water mark on the shores of both nations as across the Mediterranean Sea.

Finally, as discussed above, Japan's *Whaling* case provided a moment in ICJ jurisprudence to scoff at the spectrum of lawfulness concerning seafaring activities of commercial vessels (as opposed, in part, to scientific ones).

WHALING **AS A NEXUS BETWEEN UNSC CLASS OF 2023 & UNSC CLASS OF 2024**

With 1 declaration, six separate opinions, and four dissents, the *Whaling* case was rife with analysis as between many judges from non-permanent nations on the UNSC 2023 & 2024--namely Judges Owada and Cançado Trindade of Japan and Brazil, in particular. Owada, for obvious nationally-centered reasons, found cause to dissent against the judgment's dissipation of a large portion of a commercially viable permitting regime for his home country. Owada bucked against the widespread scope of the court's judgment and felt that it should have narrowed to the purposes of scientific research permitting.

Indeed, bridges arose between the dissenters and the separate opinion writers in the *Whaling* judgment. For example, Owada and Cançado Trindade both were concerned with limiting scope issues: with the former considering the judgment too far reaching and the latter concerned more specifically with Article VIII of the Convention. In a nod to Cançado Trindade's roots at the Inter-American Court, he really highlights the human rights element of the case—the conservation of living species and intergenerational equity. Cançado Trindade's overall quibble—as typical of the very prolific judge—was the need for the Court to further develop its judgment on matters like the object and purpose of the ICRW as well as its "living" status as an instrument, collective guarantee and collective regulation, and uncertainties of scientific research under Japan's regime.

Last year's class included two sets of non-perms, as always. Those who served 2022-2024 (Albania, Brazil, Gabon, Ghana, and the United Arab Emirates) and those who are serving between 2023-2025 (Ecuador, Japan, Malta, Mozambique, and Switzerland).

UNSC CLASS OF 2024 INHERITANCE FROM UNSC CLASS OF 2023: A CURSORY REVIEW OF 2023'S RESOLUTIONS IN THE CONTEXT OF ILLICIT ACTIVITY & THE MIDDLE EAST

The Class of 2023's 53 resolutions pertain to eleven nations (see below), three regions (Africa, the Middle East, & Western Sahara), & two topics (maintenance of international peace and security

Resolutions are the principal mechanism through which the Security Council affectuates its power in a manner that transmits/publicizes its intentions to the United Nations, its Members, and the wider world community. The basis for these resolutions arise from the Charter of the United Nations, which in addition to the formative section the Security Council, calls forth the responsibilities of that international body. For example, Art. 39 ensures that the UNSC may determine threats to peace, breach of peace, or acts of aggression and "shall make recommendations, or decide what measures shall be taken…to maintain or restore international peace and security."

In 2023, the resolutions pertaining to situations in nations related to Afghanistan, Bosnia & Herzegovina, the Central African Republic (CAR), Cyprus, North Korea, the Democratic Republic of the Congo (DRC), Haiti, Iraq, Libya, Mali, and Somalia.

Commercial activity in the *Whaling* case may be instructive for some review of UNSC Class of 2023's resolution. Indeed, distinguishable in large part because that whaling industry was permitted in some instances, commercial activity was a sometime concern for the previous year's class. Some resolutions concerned nations where the UNSC considered illicit commercial activities, though oftentimes in the context of arms trafficking. During both presidencies of the UK in July and China in November, the UNSC condemned CAR's illicit trade, in general, and trafficking in particular (in explosives and wildlife, for example) in the context of border security. Such condemnation applied to illicit transfer at the national level in the DRC, when, during Ecuador's tenure in December, the UNSC encouraged ways to dissipate small arms and light weapons, as well as Libya, when, during Brazil's tenure in October, the UNSC . Also in October, Haiti's issues, in relevant part, related to diversion of such arms.

The Middle East was by far the most robust resolution campaign throughout the tenure of the 2023 UNSC with nine (9) resolutions pertaining to that region of the world. And, while it was surprising that not one resolution pertained to the Ukraine or Russia—probably in part because the ICJ indicated provisional measures in March 2022—the hottest topic of the year arose as a result of an emergency session in the General Assembly. The Palestinian Question and violence in Israel, viciously debated in October, finally led to a resolution concerning Palestine on November 15, 2023 under China's tenure and came up again in December under Ecuador. The question of Israel also arose at the ICJ, with South Africa justifying institution of proceedings against that Middle Eastern nation through the Genocide Convention, in part relying on its typically commercial activity with Brazil, Russia, India, China, and South African (BRICS) to show, rather, a humanitarian concern.

UNSC CLASS OF 2024'S FIRST RESOLUTION (2722): PROTECTION OF COMMERCIAL & MERCANTILE ACTIVITY IN THE RED SEA

In addition to the non-permanent members of the UNSC attending to these resolutions, the U.N. Security Council always has as part of its membership the Five Perms--the phrase that I coined circa 2018 for the five permanent nations who are always on the U.N. Security Council (China, France, the Russian Federation, and the United Kingdom). One of the Five Perms, France, was the first to serve as the president of the U.N. Security Council this year. On July 4, 2023, I wrote about the European nation, which has been involved with Equatorial Guinea in two cases concerning immunities and criminal proceedings as well as return of confiscated property in criminal proceedings since that 2019 analysis.

Like the *Whaling* case analyses by the ICJ Judges, the sole resolution to date under France's current presidency, published on January 10, 2024 (Res. 2722), relates to another set of violations of international law as presented in the Middle Eastern context--illicit activities occurring against merchant and commercial vessels in the Red Sea that were *en route* to Yemen with essential goods impeding on the navigational rights and freedom of such vessels.

After condemning the Houthi attacks in November 2023 and demanding immediate cessation of future attacks like it, the Security Council affirmed the international law supporting navigational rights and freedoms by merchants and commercial vessels. With that affirmation, the UNSC stressingly noted that Member States may defend themselves against such attacks.

Organizations and agencies were given a nod by the French-led UNSC to encourage further protection of the region. The International. Maritime Organization (IMO) was lauded for its work to provide for

safe and secure transit of merchant and commercial vessels and tthe Yemeni Coast Guard and other regional capacity-building measures to encourage coastal and port State enhancement of maritime security may be bolstered through support by Member States.

In addition to enumerating obligations concerning the arms embargo and condemnation of weapons provision, the UNSC urged diplomatic efforts in the region as well as sought a report from the Secretary General.

RESOLUTION 2722: A SUGGESTION FOR NEXT STEPS

In the instance of Resolution 2722, the UNSC Class of 2024 has begun its tenure by stepping in with a forceful measure—likely attempting to forestall the napalm effect of the issues arising in Israel to prevent--perhaps in the manner of the *Whaling* Court and in the manner of my hometown's foreseeing the need for new industry--the complete annihilation of groups of peoples in that region of the world.

I can suggest scores of takeaways from Resolution 2722. I provide only a one key observations. The State Department's Bureau of International Narcotics and Law Enforcement, my alma mater at the U.S. State Department, has indicated that private business interests are not necessarily a focus for their efforts in the Middle East and North Africa. However, if they haven't already, commercially-based protection programs like that which will arise with the Yemeni Coast Guard need to be enriched and the U.S. INL should include organizations like International Attestations, LLC to provide such through bridge building efforts to enrich public-private partnerships

Tuesday, January 30, 2024, 9:00 a.m.; updated 10:10 a.m.; updated 3:48 p.m.; updated January 31, 2024, 5:44 p.m. February 8, 2024, 10:00 p.m.

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Document 3.5 U.S. Supreme Court: Wither the Cyber? (July 25, 2023)

My annual authentication outline has included both cyber and advisory at one time throughout my consideration of these specified terms. As such, during the 2020 Term, I considered both terms at varying degrees of immersion. My history with these two terms differs. First, I developed an interest in Cyber Law in 2012, after attending a closed seminar at Georgetown University's Borne Scholars program (my significant other at the time was participating in that program). Also, advisory opinions at the U.S. Supreme Court became important to me as I developed an interest in the International Court of Justice. Ahead of my review of the 2022 term, over the next two weeks I will publish my brief analyses from two years ago.

Beginning with "cyber", there has been only one update since 2020 as the term has become antiquated in legal parlance (though it never really had a strong presence, to begin with). Interestingly, in a First Amendment case during the most recent term, "cyber" did in fact arise in passing. *Counterman v. Colorado*, 600 U.S. __ (2023). In a case where a female performer who was protected with a case against an overly-zealous fan, the accused was tried and found guilty for sending scores of messages that supposedly a reasonable person would have found threatening. This all went forward against his argument that he had a First Amendment defense to free speech. The appellate court agreed with the jury, and the U.S. Supreme Court vacated the judgment because the courts below had not applied the appropriate standard for determining *mens rea* in threatening speech (there seems to be an eradication of that requirement based on recklessness and reasonableness standards that appear to blur the lines between criminal and tort law). In any event, the phrase used in the opinion by Justice Kagan was a citation to one of those Facebook messages written by other fans defending the singer against her over-zealous fan's advances: "Staying in cyber life is going to kill you."

Perhaps evocative of Jodie Foster's overzealous fan turned violent, all parties have been overly cautious. The Court's standard just seems to kick the can down the road for this particular defendant (the Petitioner in this case). He has to undergo an entire new trial, and the result will likely be the same. 4.5 years in prison for liking a public figure too much, when perhaps interventions should have redirected his gaze before they became criminalized. Perhaps Counterman has learned his lesson and he might respectfully shift his music appreciation to that of Miranda Lambert, who responded to the recent selfie-gate debate by advising her audience-members to adhere to the rules of the venue and "Shoot tequila shots instead of selfies."

There were no mentions of cyber during the 2021 term.

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Cyber analysis from the 2020 Term

The Court has directly considered cyber matters in a small selection of cases.[1] There are clearly cases that also consider internet, the world wide web, and other similarly situated terms of art. Due to time constraints, this study focuses solely on “cyber” at the Supreme Court since Chief Justice Roberts has assumed the helm. The Court has included cyber when discussing small and upstart businesses as well as cyber schools and unwanted electronic contact. It has also consider cyberspace as the “most important places (in a spatial sense) for the exchange of views.”[2] The Court has also lamented at the expeditious nature of the medium: “While we now may be coming to the realization that the Cyber Age is a revolution of historic proportions, we cannot appreciate yet its full dimensions and vast potential to alter how we think, express ourselves, and define who we want to be. The forces and dimensions of the Internet are so new, so protean, and so far reaching that courts must be conscious that what they say today might be obsolete tomorrow.”[3]

In response, Justice Alito laments that Justice Kennedy's Opinion is not a sufficient account of the differences between the cyber and physical world when considering tenets of free speech,[4] though they later join together when dissenting about the extent of ownership within the context of cell phone usage during the Cyber Age[5]-—posing the difficulty in drawing a constitutional line concerning privacy interests when also considering such cell phone data in comparison to financial and telephonic records.[6] The Court also analyzed how the Anticybersquatting Consumer Protection Act may protect unregistered trademarks.[7] In the most recent case, the Court implements the Commerce Clause doctrines as applied to the physical presence rule and later argues against a clear and easy applicability of physical presence in the Cyber Age, with such questions being addressed by state courts.[8]

[1] Bilski v. Kappos, 561 US 593 (Stevens, J, concurring in the judgment) (2010); US v. Jones, 565 US 400 (Alito, J., concurring in the judgment) (2012); Dutkevitch v. PA Cyber Charter School, 565 US 1265 (2012); Packingham v. North Carolina, 137 S. Ct. 1730 (Kennedy, J) (2017); Matal v. Tam, 137 S. Ct. 1744 (Alito, J) (2017); Carpenter v. US, 138 S.Ct. 2206 (Roberts, CJ) (Kennedy, J, dissenting)(2018); South Dakota v. Wayfair, Inc., 138 S.Ct. 2080 (Kennedy, J) (2018).
[2] Packingham v. North Carolina, 137 S.Ct. 1730, 1735. (Kennedy, J) (2017).
[3] Packingham v. North Carolina, 137 S.Ct. 1730, 1736 (Kennedy, J) (2017).
[4] Packingham v. North Carolina, 137 S.Ct. 1730, 1743-1744 (Alito, J, concurring in the judgment) (2017).
[5] Carpenter v. US, 138 S. Ct. 2206 (Kennedy, J, dissenting) (2018).
[6] Carpenter v. US, 138 S. Ct. 2206 (Kennedy, J, dissenting) (2018).
[7] Matal v. Tam, 137 S. Ct. 1744, 1752-1753 (Alito, J) (2017).
[8] South Dakota v. Wayfair, Inc., 138 S. Ct. 2080, 2097-2098 (Kennedy, J) (2018).

Tuesday, July 25, 2023, 9:00 a.m.

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Document 3.6 United Nations & Global Counter-Terrorism Strategy (June 13, 2023)

On the crisp Tuesday after Memorial Day, I ventured into New York City to attend events at the United Nations. Once at the campus, I received a grounds pass from the appropriate office—one that expires on December 31, 2023. I attended two events: the Global Counter-Terrorism Strategy revision session (Strategy session) and the opening activities for the 35th Meeting of the Chairpersons of Human Rights Treaty Bodies (Chairpersons Meeting). Last week I discussed the Chairpersons Meeting, and today I will discuss my observations of the Strategy session.

When visiting the United Nations, I stayed for an hour of the Strategy session. The Global Counter-Terrorism Strategy was adopted through consensus in 2006 and is embodied in A/Res/60/288, establishing national, regional, and international efforts to fight terrorism. Every two years, the United Nations meets to discuss revisions for this strategy—basically an international group editing session moderating by a chairperson. Attending to the second revision of the eighth such session's document when I was in attendance, the Strategy session entailed going through part by part of the strategy and proposing revisions through national representatives. So, for example, the United States sought a rationale for adding paragraph 9-bis (soon to be released with or without the revision). During that meeting, I noted that a great deal of participation came from the United Kingdom (UK), United States of America (USA), the Russian Federation (Russia), the European Union (EU), and States from the Organization of Islamic Cooperation (OIC).

Before getting into specific paragraphs, several governments voiced their overall concerns with the strategy's second revision. Saudi Arabia's representative spoke on behalf of the OIC, with the following slogan: the collective voice of the Muslim world. They were concerned about combating homophobia, criteria for selecting specific inputs, and whether equal weight to groups and delegations. The USA followed when its delegate expressed issues with PP20 (desecration of religious texts) and OP86 (rule of law, human rights and gender development; naming the Human Rights and Gender Section of the UN Office of Counter-Terrorism). Next up was the EU's delegate, who was averse to the deletion of consensus language as well as civil society protections implementation and to the new topical language that do not appear in the Secretary General reports, previous strategy versions, and more. He, too, was concerned with deletions to OP86. The UK's representative spoke after the EU, echoing concerns about the deletion of consensus language—urging its retention. The Russian delegate spoke last during the open comment period on revision 2. He felt that there was lack of clarity for the selective approaches to the revision, particularly as to why some proposals were taken and others omitted. He felt there were still many controversial paragraphs in the proposal, and he expressed a concern about paragraphs that were removed. He affirmed that he was open to further discussion and ready to work constructively with all delegations.

After the general comments, the moderator took them through a paragraph-by-paragraph review of the document. Frankly, I had a great deal of fun observing this revision session, and had I not other obligations with the human rights world, I would have stayed the entire day! However, I was only able to stay through their review of PP24. During that time, while many paragraphs were skipped extensive commentary was provided for eight (8) of those paragraphs (PP 5 bis, 9 bis, 10, 16, 18, 21, 22, and 24). I have provided a copy of the zero-draft paragraphs in the appendix.

Russia, Saudi Arabia, Egypt, the EU, and Nigeria debated the language of PP 5 bis. Russia called for naming of specific terrorist organizations and there was a discussion between Nigeria, Egypt, and the EU concerning language concerning regional issues pertaining to Africa.

While the U.S. was the only nation to comment about the addition of 9 bis, they were joined by Russia and Mexico in debating the contents of PP10—focused on underlying conditions of nations that could foster terrorism. Russia wished for more consideration of violent extremism and racial processes, while the U.S. wished to hear more rationale for opening up to more edits of this paragraph after they had already reached a careful consensus. Mexico was flexible but wished to see the previously agreed language, while also suggested putting "preventing and" before "countering" in that paragraph.

Saudi Arabia, Nicaragua, the EU, the USA, Australia, Morocco, Switzerland, the UK, Turkmenistan, and Uzbekistan were the ten (10) entities that commented on PP16 (delivery of integrated and coordinated assistance at the field level). Field presences and resident coordinators were the common topics of debate among these ten governments. Saudi Arabia and Nicaragua both countered inclusion of resident coordinators. As for field presences recommendation by Turkmenistan, the US, Switzerland, the EU, and the UK questioned inclusion of such a topic in that paragraph.

After Costa Rica and Mexico expressed their disappointment at the deletion of PP18bis, Russia and US spared over PP21 (importance of the role of the media, civil society, religious actors, the business community and educational institutions). Russia was concerned with omission of digital technologies used by terrorist and hate groups.

Saudi Arabia, Switzerland, Israel, Syria, and Iraq debated the use of "incitement" of children to terrorism as an important addition to PP22 (systematic recruitment and use of children to perpetrate terrorist attacks). The OIC, to include Saudi Arabia and Syria and Iraq, as well as Switzerland pushed back against inclusion of the term, with Switzerland's delegate requesting that they narrow the margin of the term. Israel's representative justified her nation's suggestion to include the word because of the increased instances of this activity.

Finally, Saudi Arabia, Russia, and the EU asserted their viewpoints about including "in particular women-led civil society organizations" as part of PP24 (criminal justice systems standards). The OIC, through Saudi Arabia, and Russia did not wish to include this phrase, with the latter's delegate expressing concern about particularizing the civil society organizations as "women-led" and wishing for a more whole of government and whole of society approach. The EU's representative asserted his supranational government's support for the phrase. Nine nations simple voiced their support of the EU's assertions (US, Switzerland, Japan, UK, Costa Rica, Norway, Mexico, Australia, and Colombia).

Appendix 1. Highlighted Paragraphs from the Zero Draft

PP10 *Reaffirming* the primary responsibility of Member States and their respective national institutions in countering terrorism, concerned that terrorists continue to endeavour to exploit underlying conditions in some countries, such as limited reach of Governments and lack of capacity to deliver essential services by law enforcement and security institutions, and emphasizing that enhancing the capabilities and capacities of State institutions, where applicable and upon request, to prevent and counter terrorism is a pivotal component for successful efforts against terrorism,

PP16 *Recognizing* the important role of the United Nations in providing integrated and coordinated assistance at the field level, and noting in this regard the efforts of the Office of Counter-Terrorism in increasing its field presence, including at the regional level through programme offices in Hungary, Kenya, Morocco, Qatar and Spain, and the Behavioural Insights to Counter-Terrorism Hub and the Parliamentary Engagement Hub in Doha to facilitate the delivery of programmes closer to beneficiaries, enhance their impact and cost-effectiveness, and strengthen cooperation with national and local counter-terrorism actors, as well as regional bodies and other providers and recipients of assistance, and reminding the Office of Counter-Terrorism field presence to work in close coordination with the wider United Nations presence at the national or regional level,

PP21 *Stressing* the importance of the role of the media, civil society, religious actors, the business community and educational institutions in those efforts to enhance dialogue and broaden understanding, in promoting pluralism, tolerance and coexistence, and in fostering an environment which is not conducive to incitement of terrorism, as well as in countering terrorist narratives,

PP22 *Strongly condemning* the systematic recruitment and use of children to perpetrate terrorist attacks, as well as the violations and abuses committed by terrorist groups against children in all circumstances, including killing and maiming, abduction and rape and other forms of sexual violence, noting that such violations and abuses may amount to war crimes or crimes against humanity, and urging Member States to comply with applicable obligations under the Convention on the Rights of the Child,3 emphasizing the importance of accountability for such abuses and violations,

PP24 *Recognizing* the important contribution to the counter-terrorism efforts of Member States and Global Counter-Terrorism Coordination Compact entities derived from dialogue with and, as appropriate, support for and partnership with civil society actors committed to the principles and objectives of the Charter of the United Nations, as part of a whole-of-society approach, similarly recognizing that civil society actors should be further enabled to contribute to the goals of the Strategy, and in this regard noting the Secretary-General's guidance to the United Nations system,4

4 United Nations Guidance Note on the Protection and Promotion of Civic Space.

Tuesday, June 13, 2023, 9:00 a.m.

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Document 3.7 Obligations in Advisory Opinions at the ICJ (April 25, 2023) & Consequences in ICJ Advisory Opinions: Questions & Holdings (May 16, 2023)

Obligations in Advisory Opinions at the ICJ (April 25, 2023)

On March 29, 2023, the General Assembly sought another advisory opinion from the International Court of Justice (ICJ). This is the first dedicated solely to environmental issues. The first advisory opinion at the International Court of Justice was in 1948, and it related to conditions of membership at the United Nations. Advisory opinions were also active during the tenure of the ICJ's predecessor, the Permanent Court of International Justice (PCIJ). That Court entertained eighteen advisory opinions, while the ICJ has considered twenty-seven, with an additional two pending.

The request from the General Assembly seeks answers to a couple first impression topics: climate change, anthropogenic emissions of greenhouse cases, and impact on present and future generations. This climate opinion is not the first time the environment was directly considered for an advisory opinion's questions and/or operative paragraphs. For example, the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* considered such questions. Unfortunately, the extent that obligations of international law pertain to health and environmental effects of nuclear weapons in war or armed conflict was never considered fully by the Court. The ICJ declined to consider that WHO generated opinion.

Another facet of the newest advisory opinion to be presented at the Court is the citation to ten types of treaties and international obligations at the beginning of the query. "Human Rights" are heavily represented among those documents. Obviously the instruments and customary international law that relate to this subject matter are: (1) the Charter of the United Nations; (2) the International Covenant on Civil and Political Rights; (3) the International Covenant on Economic, Social and Cultural Rights; (4) the rights recognized in the Universal Declaration of Human Rights; (5) the principle of prevention of significant harm to the environment; and (6) the duty to protect and preserve the marine environment. But there are also arguments that the other four documents are also human rights instruments: (1) the United Nations Framework Convention on Climate Change; (2) the Paris Agreement; (3) the United Nations Convention on the Law of the Sea, and (4) the duty of due diligence.

"Human Rights" have been directly addressed in the questions presented and/or operative paragraphs of two (2) other cases (The forthcoming Jerusalem & Palestine Opinion; *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (1999)). Rights in general were also discussed in the PCIJ's *Greco-Bulgarian Communities*, in which the opinion considered property rights of dissolving populations (1930).

Thirteen of the advisory opinions before the ICJ and the PCIJ have directly consider obligations in their questions presented and/or operative paragraphs (*Chagos Archipelago*; *Palestinian Wall*; *Immunity of Special Rapporteur*; *Nuclear Weapons in Armed Conflict*; *Nuclear Weapons*; *UN Headquarters Agreement*; *WHO and Egypt Agreement*; *Presence of South Africa in Namibia*; *South West Africa*; *Reparation for UN Injuries*; *European Commission of Danube Jurisdiction*; *German Settlers in Poland*; and *Status of Eastern Carelia*).

Obligations have arisen as the responsibility of States as a whole or individually, national governments, national courts, and treaty signatories. Further, obligations have been national as well as international. They have also been mutual or exclusive as well as based on legality or illegality. Actions of obligations can be to terminate, recognize (or not to recognize), enter into, consult, negotiate, give (notice), withdraw, transmit, place under (trusteeship system), ensure, breach, and contemplate.

The PCIJ cases established the modern foundation of obligations as considered by the ICJ. *Status of Eastern Carelia* established the obligation of one state to another, *German Settlers in Poland* set up international obligations contemplated by a treaty, and *European Commission of Danube Jurisdiction* ensured freedom of navigation and equal treatment of all flags.

South West Africa considered international and legal obligations, particularly with regard to transmittal of petitions for inhabitants as well as placement under the UN's Trusteeship system. *Presence of South Africa in Nambia* set the foundation for an obligation to recognize the illegality of one state's presence in another and, by extension, the duty to withdraw such presence.

Contractual obligations have been present at the ICJ as well. *UN Headquarters Agreement*required arbitration, *WHO and Egypt Agreement* established the mutual obligation to consult, negotiate and give notice, and *Reparation for UN Injuries* addressed breach of obligations due to the United Nations.

Nuclear Weapons in Armed Conflict attempted to address health and environmental concerns, while *Nuclear Weapons* instituted disarmament requirements.

Immunity of Special Rapporteur contemplated national responsibilities for international obligations. Malaysia and its Government were under obligation to inform its courts of the Secretary General's findings as well as the ICJ advisory opinion. Further, the national courts were mandated to deal with the question of immunity from legal process. Finally, overall the nation was to give effect to international immunity obligations.

Palestinian Wall addressed the need to terminate breaches of international law, cease construction, make reparations and to ensure compliance by Israel. Interestingly in the *Palestinian Wall* case, the Court also talked about negative obligations—the obligation not to recognize the illegal situation.

Finally, *Chagos Archipelago* implemented obligations arising from decolonization.

Other elements considered within the climate change questions posed to the ICJ concern States, consequences, acts, omissions, harm, small-islands, geography, vulnerabilities, adverse effects, affected by, individual, and people. As the world prepares for the results of the climate change advisory opinion, I will continue to consider these elements of the questions. The ICJ has set the deadline for written statements for 20 October 2023 and for written comments on those statements for 22 January 2024.

Annex 1. List of Advisory Opinions at the ICJ

Pending ICJ Advisory Opinions

1. Obligations of States in respect of climate change
2. Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

ICJ Advisory Opinions (reverse order)

1. Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (2019)
2. Judgment No. 2867 of the Administrative Tribunal of the International Labour Organization upon a Complaint Filed against the International Fund for Agricultural Development (2012)
3. Accordance with international law of the unilateral declaration of independence in respect of Kosovo (2010)
4. Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (2004)
5. Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights (1999)
6. Legality of the Use by a State of Nuclear Weapons in Armed Conflict (1996)
7. Legality of the Threat or Use of Nuclear Weapons (1996)
8. Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations (1989)
9. Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947 (1988)
10. Application for Review of Judgment No. 333 of the United Nations Administrative Tribunal (1987)
11. Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal (1982)
12. Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt (1980)
13. Western Sahara (1975)
14. Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal (1973)
15. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) (1971)
16. Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)

17. Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization (1960)
18. Admissibility of Hearings of Petitioners by the Committee on South West Africa (1956)
19. Judgments of the Administrative Tribunal of the ILO upon Complaints Made against UNESCO (1956)
20. Voting Procedure on Questions relating to Reports and Petitions concerning Territory of South West Africa (1955)
21. Effect of Awards of Compensation Made by the United Nations Administrative Tribunal (1954)
22. Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (1951)
23. International Status of South West Africa (1950)
24. Interpretation of Peace Treaties with Bulgaria, Hungary and Romania (1950)
25. Competence of the General Assembly for the Admission of a State to the United Nations (1950)
26. Reparation for Injuries Suffered in the Service of the United Nations (1949)
27. Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter) (1948)

Annex 2. List of Advisory Opinions at the PCIJ

1. B18 – Free City of Danzig and ILO (1930)
2. B17 Greco-Bulgarian "Communities" (1930)
3. B16 Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV) (1928)
4. B15 Jurisdiction of the Courts of Danzig (1928)
5. B14 Jurisdiction of the European Commission of the Danube (1927)
6. B13 Competence of the ILO to Regulate Incidentally the Personal Work of the Employer (1926)
7. B12 Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne (1925)
8. B11 Polish Postal Service in Danzig (1925)
9. B10 Exchange of Greek and Turkish Populations (1925)
10. B09 Monastery of Saint-Naoum (1924)
11. B08 Jaworzina (1923)

12. B07 Acquisition of Polish Nationality (1923)
13. B06 German Settlers in Poland (1923)
14. B05 Status of Eastern Carelia (1923)
15. B04 Nationality Decrees Issued in Tunis and Morocco (1923)
16. B03 Competence of the ILO to Examine Proposal for the Organization and Development of the Methods of Agricultural Production
17. B02 Competence of the ILO in regard to International Regulation of the Conditions of the Labour of Persons Employed in Agriculture (1922)
18. B01 Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference (1922)

Tuesday, April 25, 2023, 9:00 a.m.

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Consequences in ICJ Advisory Opinions: Questions & Holdings (May 16, 2023)

On April 25, 2023, I published a blogpost about the most recent request for an advisory opinion about the obligations of states concerning climate change at the International Court of Justice (ICJ). In that post, I discussed one of the central tenets of the climate change question posed to the ICJ. I also highlighted the direct mention of human rights in the query. At the end of the entry, I listed other elements posed to the ICJ: States, consequences, acts, omissions, harm, small-islands, geography, vulnerabilities, adverse effects, affected by, individual, and people.

Today, I'll briefly sum-up the questions presented and the operative paragraphs of the principal advisory opinions addressing consequences at the ICJ because the *Obligations of States in respect of climate change* (*Climate Change*) request posits: "What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to: (i) States...[and] (ii) Peoples and individuals...?"

There have been four (4) advisory opinions that have centrally-addressed consequences.

The advisory opinions that have already been decided are the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276* (1970) (*South West Africa*), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004) (*Palestinian Wall*), and *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*(2019) (*Chagos Archipelago*). Most recently, and still pending, is the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (*Occupied Palestinian Territory*).

Those questions presented are listed verbatim in chronological order:
1. What are the **legal consequences** for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (South West Africa)?

2. What are the **legal consequences** arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of thie Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions (Palestinian Wall)?

3. What are the **consequences under international law**, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin (Chagos Archipelago)?

4. (a) What are the **legal consequences** arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures (Occupied Palestinian Territory)?

5. (b) How do the policies and practices of Israel referred to in paragraph 18(a) above affect the legal status of the occupation, and what are the **legal consequences** that arise for all States and the United Nations from this status (Occupied Palestinian Territory)?

The term "consequences" also appeared once in a question presented in the Permanent Court of International Justice (PCIJ), the predecessor of the ICJ. In Greco-Bulgarian "Communities" (1930) (Greco-Bulgarian Communities), the Greek government asked:

"Do the communities possess the characteristic of being connected as minorities and racial groups with the country in which the majority of the population is of the same race ? What are eventually the **consequences**, as regards the allocation of their property, where their members, as contemplated by Article 1O of the Convention, are dispersed or absent (in the legal sense of the term) ?"

Arguably, the PCIJ advisory opinion, Jurisdiction of the Courts of Danzig (1928), predates the first express mention of consequences by considering the results of certain activities (namely regarding the illegality of the the High Commissioner's decision in relationship to requests made by the Danzig government).

Consequences have increasingly been expressly considered within the questions presented to the ICJ for an advisory opinion, in that they have been part of the most recent three queries (Chagos Archipelago, Occupied Palestinian Territory, and Climate Change). And they've been the topic of four the last six advisory opinions questions. All five of the advisory opinions addressing consequences sprang up since 1970, with the Court having accepted seventeen queries seeking advisory opinions since that time. There have been a total of 29 requests for advisory opinions, which means that nearly one-sixth of all advisory opinions at the ICJ have considered consequences.

In the three advisory opinions that have hencefar been published, the relevant operative paragraphs are as follows:

1. ***Chagos Archipelago*** (#3-5):
Is of the opinion that, having regard to international law, the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago.
Is of the opinion that the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible;
Is of the opinion that all Member States are under an obligation to co-operate with the United Nations in order to complete the decolonization of Mauritius.

2. ***Palestinian Wall*** (3):
A. The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law ;
B. Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;
C. Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;
D. All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assis- tance in maintaining the situation created by such construction; al1 States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation. while respecting the United Nations Charter and inter- national law, to ensure compliance by Israel with international humani- tarian law as embodied in that Convention;

E. The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion.

3. ***South West Africa*** (1-3):
(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory ;
(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration; and
(3) that it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia.

4. **Greco-Bulgarian Communities** (111.2)
(2) Communities, within the meaning of the Convention, are of a character exclusively minority and racial. The State to which they are racially akin does not from this circumstance derive any right to the movable property or to the proceeds of the liquidation of the immovable property of a dissolved community whose members are dispersed or absent.

The dissents from American judges in the two most recent ICJ opinions concerned with consequences are notable. First, Judge Donoghue (USA) was the lone dissenter in all three relevant *Chagos Archipelago* holdings. She felt that the bilateral treaties were sufficient for completion of the process of decolonization. Perhaps foreseeing what her former slave-holding nation may endure for such an unlimited "statute of limitations", she contested that holdings insisting that the modern United Kingdom should suffer the consequences from conduct so remotely in the past (Donoghue dissent, para. 18). She felt the response of the other ICJ Judges was not limited enough (para. 22).

Next, Judge Buergenthal also was almost entirely the lone dissenter in the *Palestinian Wall* opinion, only being joined by Judge Kooijmans (The Netherlands) against the holding that all states were obligated not to recognize the illegal situation and they were not permitted to render aid or assistance in such construction. Judge Buergenthal asserted his dissent because in his view, "the absence in this case of the requisite information and evidence vitiates the Court's findings on the merits." He finished by stating that the Court was under no obligation to make findings in the case.

The earliest ICJ opinion showed a more divided Court concerning its holdings (*South West Africa*), with eight separate opinions and one declaration.

The only PICJ opinion is not cited, but the two most recent ICJ opinions both cite to the Greco-Turkish Agreement (1928) to stand for the proposition of the inadequately formulated question presented. In fact, the former has almost never been cited, only discoverable in the Written Comments of the Government of the Republic of Costa Rica in *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* for a different assertion in the opinion; namely, that, as later codified in the Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Indeed, when the Court has been asked to consider consequences, it tends to give fairly detailed instructions about the path forward at the national and international levels.

List of Cross-References
Blogpost on ICJ Advisory Opinions Questions Presented: https://internationalattestations.com/blog/f/icj-advisory-opinions-questions-presented
Information about the Climate Change request: https://icj-cij.org/case/187

Tuesday, May 16, 2023, 9:00 a.m.

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Document 3.8 Comment on Supreme Court Rules (February 7, 2023)

The U.S. Supreme Court published new rules in December. They did so months after opening up a comment period on the proposed changes. The period was about a month and done without the benefits of Regulations.gov's electronic filing system for notice and comment periods.

On April 11 and April 19, 2022, I published two successive blog posts concerning the 2022 proposed U.S. Supreme Court Rule changes published by the U.S. Supreme Court's Clerk, Scott S. Harris. Those posts were entitled: U.S. Supreme Court Rule Changes 2022: Colors of Amicus Curiae and U.S. Supreme Court Rules: Favorability & Erasing Consent. The first post discussed the problems with potentially increasing amicus curiae briefs. The second post details the history of favorability as described in the rules concerning amicus curiae. Favorability is shorthand for how the parties shall give consent for participation in the case.

The comments for rule changes were due around the time of the second post. I expeditiously researched the historic rules and provided comments on favorability and the court's notice and comment methodology. After filing my comments, I moved on to many other projects--Supreme Court and holidays; the International Court of Justice and judges ad hoc; the Bureau of International Narcotics and Law Enforcement, and so on.

In mid-December 2022, I received a letter from the Clerk of Court, Mr. Harris himself! He thanked me for my thoughtful response to the Court's request for comments on proposed revisions to the Rules. He also wrote: "Your comments, and those of many others, were quite helpful in finalizing the amendments that were announced on December 5, 2022. We are grateful for your assistance."

In the spirit of my goal of moving comments online, I have decided to print the suggestions I made to the Court below.

Feel free to email me yours if you were among one of the commenters! Or better still, call me to write one for you...

SPECIFIED COMMENTS BY MELISSA A. KOTULSKI FOR PROPOSED CHANGES TO THE U.S. SUPREME COURT'S RULES (APRIL 2022)

Rule 37 Removal of Consent of the Parties & Using Regulations.gov

Question Presented 1: Whether favorability language may be beneficially added to the sections of Rule 37 that are directly impacted by erasure of the requirement that a party seeking to file an *amicus curiae* brief obtain consent of the parties or file a motion for leave?
Short Answer 1: The Court would likely benefit from adding favorability language to 37(2) and 37(3).
Question Presented 2: Whether the Court would benefit from use of Regulations.gov for posting about a notice and comment period?
Short Answer 2: It depends on the Court's discretion.

I. Language Concerning the Court's Favorability Would Likely Clarify the New Rule

A. *Amicus Curiae* Briefs Will Now Be at the Sole Discretion of the Court

The Court has published for public comment a proposed change of Rule 37's consent-of-parties provisions. Beginning with the inclusion of the *amicus curiae* in the Court's 1939 publication, this provision of the rule has a long-standing tenure with the history of this type of participation in a Supreme Court case. Favorability has stood as a part of the *amicus curiae* rule since 1954, but not as part of the provisions pertaining to consent. The Court might benefit from including a provision about its standard of favorability in the *amicus curiae* rule's paragraph 2 and 3.

B. Consent of the Parties Has Been Part of the *Amicus Curiae* Rules Since Their Inception

While there has been evidence of *amicus curiae* briefs provided to the Court before 1939, no provision existed in the Court's publication of the rules before that year. Between 1936 and 1939, under the tenure of Chief Justice Charles Evan Hughes (1930-1941), a new provision for the Rules of the Supreme Court of the United States was implemented. Adopted February 13, 1939, and effective February 27, 1939, paragraph 9 of rule 27 was inserted into the text as follows:

> A brief of an *amicus curiae* may be filed when accompanied by written **consent of all parties** to the case, except that **consent need not be had.** when the brief is presented by the United States or an officer or agency thereof and sponsored by the Solicitor General, or by a State or a political subdivision thereof. Such brief must bear the name of a member of the bar of this court. (bold used to highlight the relevant provision)

That means from its inception the parties were given the authority to offer (or withhold) approval for permitting friend of the court briefs and that authority was never required for the State parties (Solicitor General or State or political subdivision thereof).

Between the rules of 1939 and the rules of 1954, another substantial change arose with the implementation of a table of contents and a reshuffling of the rules so that the *amicus curiae*briefs were situated in their own rule at Rule 42 under "Part VIII. Practice".[1] Another shift arose between 1970 and 1980, when the rule was changed to #36.[2] The final major structural change happened between 1980 and 1989, when the rule was moved to #37 and the parts of the greater body of rules were renumbered and renamed situating the *amicus curiae* rule in "VII. Practice and Procedure".[3] That means the structure of this rule in relation to the other rules of Court has remained relatively stable since 1989—for more than 33 years—which means the rule's placement remained untouched during the Court's most recent revision in 2017.[4]

The Court implemented the imperative gateway measure of consent of all parties for an *amicus curiae* to enter an argument, except in the case of the Solicitor General, at the time of the first formalized *amicus curiae* rule. One posits why consent was built into the then two-sentence rule—which has since been expanded into its own rule and today stands at six extensive paragraphs. Looking at the context of the period, the adversarial internal strife of the 1930s led to a 1940s consolidation of national efforts on the international stage. And Chief Justice Hughes maintained a relatively global outlook since his days as Secretary of State (1921-1925) ushered in the Permanent Court of International Justice.

Between 1939-1954, the Court developed the consent concept even further. *Amicus curiae* briefs became the subject of an entire rule, expanding from one paragraph into five. The Warren Court's rule change's expansion to five paragraphs still centered the rule on the consent of the parties. The five paragraphs added a great deal of detail to the consent portion of the rule by distinguishing between season of a case (before petition, before merits); providing a procedure for when consent was not given; and expanding the Solicitor General exception to consent to include agencies, States, Territories, Commonwealths or the political subdivisions of such.[5]

1954 marked the year when the provision on favorability was inserted in paragraph one of then-rule 42: "…a motion for leave to file when consent is refused…[is] not favored." While that standard of favorability evolved into the current-rule 37's paragraph 1:

> An *amicus curiae* brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court. An *amicus curiae* brief that does not service this purpose burdens the Court, and its filing is not favored. (2017 Rules)

Like the favorability development, the definition of consent continued to be enhance as rule revisions moved on. The 1980 rule changes added that the consent of the parties needed to be in writing (36[1]; 36[2]). Further, the drafters of the rules narrowed the limitations when filing of a brief to a case before the Court for oral argument (36[3]), this rule applied more broadly before the 1980 revisions.

The Rehnquist Court went through two major substantive revisions. Limitations on the numbers of *amicus curiae*briefs submitted in a case emerged in 1989 when the Court indicated that an *amicus curiae* brief can help bring a "relevant matter to the attention of the Court" that had not "already been brought to its attention by the parties" and anything that "does not serve this purpose simply burdens...the Court and its filing is not favored." (Rule 37(1)).[6] This favorability threshold provided the Court with the foundation for elimination of briefs addressing irrelevant and redundant matters. Further, such a threshold gave the Court a test for acceptance or denial of approval.

Next, the 1995 rules substantially expanded two of the six paragraphs (para. 2 and para. 3) by adding two sections to each paragraph (a and b).[7] This expansion provided *amicus curiae* with two primary pathways to submitting briefs: 1. via consent of the Court; 2. via consent of the parties. The latter pathway is what the 2022 rules propose to eliminate.

While the next revisions to the rule included the use of electronic transmission of materials to the Court in 2007 (Rule 37(3)(a)) and the inclusion of a sentence only permitting attorneys at bar to submit amicus curiae briefs in 2010 (Rule 37(1)),[8] 2022 will be the first substantive development concerning consent and *amicus curiae* briefs since 1995. This substantial change to *amicus curiae* briefs will mark the first substantive revision to this longstanding, historical provision by Chief Justice Roberts. He and his clerk, Scott Harris, have been serving in these positions long enough to reasonably foresee this revision to be his last to the amicus curiae briefs. Still, problems may arise and there may be a need for further changes in future rule revisions.

C. The Court's Jurisprudence Supports Inclusion of a Provision on Favorability

The Court has traditionally asserted that *amicus curiae* briefs not consented to by the parties would likely not be favored. By erasing these provisions, along with the language on favorability in para. 2 & para. 3, the Court will likely benefit from clarifying its standard of review of *amicus curiae* briefs. Justice Kagan's recent *Badgerow v. Walters* (2022) opinion indicates support for adding this language, while Justice Breyer's *Badgerow v. Walters* (2022) dissent supports the favorability provision simply arising in §1 of Rule 37. The former is the current standard proscribed to by almost the entire Court when considering "*et seq*," while the latter is the solitary dissent of a retiring, albeit longstanding, member of the Court.

As such, the standard of favorability will not be implied by its inclusion in para. 1 of Rule 37. And the practitioners will benefit from the Court's clarification with a phrase or sentence in para. 2 and para. 3 indicating the standard for favorability at the two distinctive phases of the case. Such a clearly stated standard will likely limit the *amicus curiae*to those that are "of considerable help" to the matter.

D. Suggestion for Insertion of Favorability Standard

The standard for favorability may be inserted as a phrase within the first sentence of or as a sentence at the end of revised paragraphs 2 and 3 of Rule 37. The details of the standard are, of course, at the discretion of the Court.

II. **The Court Might Benefit from Posting on Regulations.gov**

Like many federal agencies and courts, the U.S. Supreme Court is gracious to permit a comment period on the rule changes. Many agencies and courts use Regulations.gov, a portal designed to seek, collect, and post comments on proposed rule changes at various stages of rule-making. In fact, the U.S. Courts have been seeking regular comments on their rule changes since 2013 for the preliminary drafts of the (1) Federal Rules of Civil Procedure, the (2) Federal Rules of Bankruptcy, and (3) Federal Rules of Criminal Procedure; since 2014 the (4) Federal Rules of Appellate Procedure; and since 2015 the (5) Federal Rules of Evidence.

Half of the 32 comment periods sought bпy the U.S. Courts have yielded less than 13 comments per set of rule changes. While the other half have led to copious comments, only the top six have borne more than 100 comments. In sum, about 81% of comments periods produce less than 100 comments. And except for two specialized comment periods by the U.S. Courts that lasted one and four months respectively, almost all comment periods have lasted about 6 months from the time notice of the rule change (give or take a day).

Perhaps the U.S. Supreme Court might consider submitting the next comment period via Regulations.gov. Not all comments are published for the public to view. Though if the Court chooses to publish the comments, then like the Court's other materials, they can be discoverable and researchable for the public to use—likely leading to more refined responses to future comments on rules. Finally, the the Court can still offer a 1-month comment period, and it can reduce paperwork by accepting electronic files for some, if not all, comments.

While Regulations.gov is a relatively new mechanism for accepting comments, the Court has now undergone two rule changes without using this useful device for notice and comment periods. Perhaps the Court may consider using it for the next revision of the rules.

[1] Revised Rules of the Supreme Court of the United States, Adopted April 12, 1954, Effective July 1, 1954. The other parts of that table of contents were: Part I. The Court; Part II. Attorneys and Counsellors; Part III. Original Jurisdiction; Part IV. Jurisdiction on Appeal; Part V. Jurisdiction on Writ of Certiorari; Part VI. Jurisdiction of Certified Questions; Part VII. Jurisdiction to Issue Extraordinary Writs; Part IX. Special Proceedings; Part X. Disposition of Causes; Part XI. Abrogation of Prior Rules; & and Appendix with Forms.

[2] Rules of the Supreme Court of the United States, Adopted April 14, 1980, Effective June 30, 1980, including revisions of November 21, 1980.
[3] Rules of the Supreme Court of the United States, Adopted December 5, 1989, Effective January 1, 1990. The other parts of the rules were: Part I. The Court; Part II. Attorneys and Counselors; Part III. Jurisdiction on Writ of Certiorari; Part IV. Other Jurisdiction; Part V. Motions and Applications; Part VI. Briefs on the Merits and Oral Argument; Part VIII. Disposition of Cases; Part IX. Application of Terms and Effective Date
[4] Rules of the Supreme Court of the United States, Adopted September 27, 2017, Effective November 13, 2017.
[5] The fifth paragraph provides for the policy of submitting brief, motions, and responses (Rule 33, 35, 39, 40).
[6] Rules of the Supreme Court of the United States, Adopted December 5, 1989, Effective January 1, 1990.
[7] Rules of the Supreme Court of the United States, Adopted July 26, 1995, Effective October 2, 1995.
[8] Rules of the Supreme Court of the United States, Adopted July 17, 2007, Effective October 1, 2007; Rules of the Supreme Court of the United States, Adopted January 12, 2010, Effective February 16, 2010.

Tuesday, February 7, 2023, 9:00 a.m.

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Document 3.9 Nationality & Hoops at Court (May 17, 2022)

Springfield, Massachusetts has a great sight to the west of I-91 as one enters the city: A building shaped like a basketball commemorates the past, present, and future facets of the sport. Although some manifestation of the Naismith Memorial Basketball Hall of Fame has been open since 1959, the sport has been around since 1891. What heights the players have attained since that time--most fans well know that dunk from the foul line that set the stage for the soaring/scoring theatrics of the current generation. And the bar at the national level, keeps on araisin'!

Basketball has been a sport at the Olympics since 1936 and the Court of Arbitration for Sport (CAS) has seen more than 30 cases. At that tribunal, the vast majority of cases (19) have been dismissed. While jurisdiction was affirmed in one (1) case, four (4) instances arise when jurisdiction was denied. Finally, the Court partially upheld all but two of the eight (8) cases that have been upheld. In addition to scores of individuals (even Allen Iverson has made an appearance in this Court), parties have included clubs and international organizations, such as: Fédération Internationale de Basketball (8), FIBA Europe (2), International Paralympic Committee (1), Nederlandse Basketball (Bond) (1), the Russian Basketball Federation (1), the Russian Anti-Doping Agency (1), the VTB United League (1), and more, The Fédération Internationale de Basketball was involved with a quarter of the cases--eight (8) of the thirty-two (32), almost always as the respondent.

The dismissals happened because of issues pertaining to *res judicata* (already adjudicated), *prima facia* bases and burden of proof, jurisdiction to impose sanctions the duty of a internal body of a federation, applicability of rules, admissibility of appeal, admissibility of counter-claims, and so on. The subject matter is even more wide-ranging, with issues like appearance of teams, age/youth of players, doping, and nationality (election/plurality/discrimination).

Jurisdiction was affirmed in the doping and level of experience case, but not the contract and deadline, validity and appealability to CAS, standing for jurisdiction, and exhaustion. None of the cases determining jurisdiction addressed nationality in any substantial fashion.

In addition to topics that include anti-doping, national law in disputes, 3rd parties in arbitration agreements, employment contract issues, and delays in arbitration standards, issues of nationality do span into the upheld cases.

Of all the 32 basketball cases having been heard by the CAS, nationality is addressed merely as a statement of the place of origin (i.e., Croatian, Dutch, Greek, Latvian, Serbian, Spanish, Venezuelan, Yugoslav) of the player and/or the arbitrator. A player's place of origin could be for club purposes (i.e., Hellenic) or national team purposes (i.e., Yugoslav). Further, a legal nationality must be the same as the basketball nationality. Among these cases is also a discussion about the prohibition against discrimination based on nationality.

Finally in one of the fully upheld cases, the panel of arbitrators (France, Greece, UK) critiqued the system's nationality criteria basis for determining a player's place of origin for the purposes of playing basketball in a professional league. They seemed to encourage a system where the criteria would be based on the period of time that the individual plays in national competitions. This panel cautioned against teams substantially or wholly composed of "sporting mercenaries."

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Document 4.
Notes to Support Comments
(Internal Document)

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PUBLIC SUBMISSION

Comment from Lucchetti, Andrew

Posted by the **United States Courts** on Feb 10, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

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Attachments 1

SKM_C751i26021011470

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Comment ID
USC-RULES-CV-2025-0004-0185

Tracking Number
mlg-s4oj-q1eg

Comment Details | **Submitter Info**

Received Date



HALPERIN
LAW CENTER

Andrew Lucchetti, Esq.
Partner
andrew@hlc.law

February 10, 2026

Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544

Re: Comment in Support of Proposed Amendments to Federal Rules of Civil Procedure 41 and 45 (Docket No. USC-RULES-CV-2025-0004)

Dear Members of the Committee:

I write to express my strong support for the proposed amendments to Federal Rules of Civil Procedure 41 and 45, published for public comment in August 2025. As a practicing attorney in federal court, I have firsthand experience with the practical difficulties that these amendments are designed to address. The proposed changes reflect the realities of modern federal litigation and will meaningfully improve the efficiency and fairness of civil proceedings for courts, litigants, and practitioners alike.

I. The Proposed Amendment to Rule 41 Benefits All Participants in the Litigation Process

The proposed amendment to Rule 41(a) is a commonsense modernization that brings the text of the rule into alignment with the widespread existing practice of many federal courts. By explicitly permitting the voluntary dismissal of one or more claims, rather than only the entire action, the amendment provides clarity and uniformity where there has been unnecessary inconsistency.

As the Advisory Committee Note recognizes, multi-claim and multi-party litigation has become the norm since Rule 41 was first promulgated in 1938. Yet the rule's text has not kept pace with this evolution. The result has been a patchwork of local interpretations, with some courts permitting the voluntary dismissal of individual claims and others reading the rule to require dismissal of the entire action. This creates uncertainty for litigants and their counsel who practice across multiple jurisdictions. The amendment resolves this ambiguity decisively.

The benefits of this change extend to all parties in the litigation. Plaintiffs gain the flexibility to narrow their cases voluntarily as litigation progresses, whether in response to new

information, partial settlements, or strategic refinements. Defendants benefit because the narrowing of claims reduces the scope of discovery, motion practice, and trial preparation. Courts benefit from more streamlined dockets and more focused proceedings. This amendment is fully consistent with the policy, reflected throughout the Federal Rules, of encouraging the simplification and resolution of cases during pretrial proceedings.

The companion change to Rule 41(a)(1)(A)(ii), requiring only the signatures of parties who have appeared and remain in the action on a stipulation of dismissal, is equally sound. Under the prior language, parties who had already departed the litigation could effectively hold up a stipulated dismissal by being unreachable or unwilling to sign. This created an unnecessary and unjust obstacle to settlements and case simplification. The amendment correctly recognizes that only parties actively litigating claims should have a say in whether those claims are dismissed by stipulation.

II. The Proposed Amendment to Rule 45 Modernizes and Clarifies Subpoena Service

The proposed amendments to Rule 45(b)(1) address a longstanding source of practical difficulty: the ambiguity surrounding the permissible methods of serving a subpoena. The current rule's reference to "delivering a copy to the named person" has generated disagreement among courts about whether personal hand delivery is required, resulting in unnecessary delays, failed service attempts, and increased costs for litigants, particularly in cases where witnesses are difficult to locate or serve in person.

The amendment wisely resolves this ambiguity by specifying multiple recognized methods of service. Drawing from the well-established methods in Rule 4(e)(2)(A) and (B) for service of a summons and complaint, personal delivery and leaving a copy at the person's dwelling with a person of suitable age and discretion, the amendment provides familiar and reliable mechanisms that adapt naturally to the subpoena context. The addition of service by United States mail or commercial carrier, conditioned on confirmation of actual receipt, reflects the practical reality that these methods regularly succeed and provide adequate assurance that the witness received notice. The further provision allowing courts to authorize alternative means of service for good cause provides appropriate flexibility for situations that do not fit neatly within the enumerated methods.

These changes make service of subpoenas easier, more efficient, and less prone to dispute without sacrificing the fundamental goal of providing actual notice to the witness. The 14-day advance service requirement for subpoenas commanding attendance at trial, hearing, or deposition is a sensible addition that protects witnesses from unreasonably short notice while preserving the court's ability to shorten that period for good cause. The relaxation of the requirement that witness fees be tendered at the time of service likewise addresses a practical problem that has, as the Advisory Committee documented, led to service being invalidated on purely technical grounds.

The amendment to Rule 45(c), which addresses the ability of a court to compel remote testimony by subpoena for witnesses beyond 100 miles of the courthouse, is also well-considered. The Ninth Circuit's decision in *In re Kirkland*, 75 F.4th 1030 (9th Cir. 2023), created an unworkable limitation at odds with the 2013 revision of Rule 45 and the growing prevalence of remote testimony in modern litigation. The proposed amendment restores the authority that the

2013 Advisory Committee Note made clear was intended and ensures that courts retain the tools necessary to manage their proceedings effectively.

III. Conclusion

The proposed amendments to Rules 41 and 45 are practical, well-reasoned, and long overdue. They bring the text of the rules into alignment with the realities of modern federal practice, eliminate unnecessary ambiguities, and improve the litigation process for all participants. I respectfully urge the Committee to adopt these amendments as proposed.

Thank you for the opportunity to comment on these important proposals.

Very truly yours,



Andrew Lucchetti, Esq. (VSB No.:86631)

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PUBLIC SUBMISSION

Comment from Barberio, Michael

Posted by the **United States Courts** on Feb 11, 2026

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Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

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Comment ID
USC-RULES-CV-2025-0004-0186

Tracking Number
mlg-xi7g-45r2

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from benito, richard

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Attachments 1

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Comment ID
USC-RULES-CV-2025-0004-0187

Tracking Number
mlg-xl4g-r4hj

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Richard Benito
Date: 2/10/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

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Based on conservative projections:

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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

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Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
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This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Richard Benito
RB&C Services

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Comment from Howard, Michelle

Posted by the **United States Courts** on Feb 11, 2026

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Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45

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Comment ID
USC-RULES-CV-2025-0004-0188

Tracking Number
mlg-xo1u-zh9a

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

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VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from Grushin, Andrey

Posted by the **United States Courts** on Feb 11, 2026

Comment

To Whom It May Concern:

I respectfully submit this comment in opposition to the proposed amendments to Federal Rule of Civil Procedure 45. While modernization and efficiency in civil procedure are important goals, the proposed revisions raise several concerns regarding fairness, burden allocation, and unintended consequences for non-parties.

1. Increased Burden on Non-Parties

FRCP 45 has historically balanced the discovery needs of litigants against the rights of non-parties to be free from undue burden and expense. The proposed amendments risk shifting this balance by expanding obligations without providing sufficient procedural safeguards. Non-parties, who have no stake in the underlying litigation, may face increased costs, disruption of operations, and exposure to legal risk.

The rule should continue to reflect the principle that discovery from non-parties must remain exceptional rather than routine.

2. Risk of Expanded Discovery Abuse

The amendments may unintentionally incentivize broader third-party discovery requests. Without stronger enforcement mechanisms or clearer limits, litigants may rely more heavily on non-party subpoenas as a strategic tool rather than a last resort.

This could increase litigation costs overall and place disproportionate pressure on small businesses, medical providers, and individual professionals.

3. Insufficient Cost-Shifting Protections

Give Feedback

Although FRCP 45 references protection from significant expense, the proposed changes do not adequately strengthen mandatory cost-shifting provisions. Courts currently apply cost-shifting inconsistently, creating uncertainty for non-parties deciding whether to comply or object.

Any expansion of subpoena scope should be paired with clearer, mandatory cost-allocation standards.

4. Potential Privacy and Data Security Concerns

Modern subpoenas often seek large volumes of electronically stored information (ESI). Expanded subpoena authority may increase risks related to:

Confidential business information

Personal data of customers or patients

Cybersecurity exposure during data production

The proposed amendments should include stronger safeguards or cross-reference protective order standards.

5. Need for Additional Study and Pilot Testing

Given the complexity of modern ESI discovery and the economic impact on non-parties, further empirical study and pilot programs may be warranted before nationwide rule changes are adopted.

Conclusion

For the reasons stated above, I respectfully urge reconsideration or revision of the proposed amendments to FRCP 45. Any modernization effort should preserve the longstanding principle that non-parties deserve heightened protection from litigation burdens in which they have no direct involvement.

Thank you for considering these comments

Comment ID
USC-RULES-CV-2025-0004-0189

Tracking Number
mlg-xryv-zpkw

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Feb 10, 2026

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PUBLIC SUBMISSION

Comment from Barrister Malstroms a dba of Barrister Legal Services, LLC

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

Fed Rule Change Objection

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Comment ID
USC-RULES-CV-2025-0004-0190

Tracking Number
mlg-xyd3-j8xe

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from Crum, Danielle

Posted by the **United States Courts** on Feb 11, 2026

Comment

To Whom It May Concern,

I have reviewed the proposed amendment and feel compelled to comment based on my professional experience processing returns of service for civil process servers.

Permitting service by simply leaving documents at an address without verification of the subject's residence or employment—and/or then mailing documents to a "last known address"—does not promote effective or reliable service. In practice, this approach is largely ineffective.

A significant majority of the returns of service I process are ultimately returned as non-served, often multiple times, until a valid address can be identified. Frequently, the addresses provided are vacant, the intended recipient has moved, or a business has closed or relocated. In these situations, documents are effectively left with no one, defeating the fundamental purpose of service of process: providing actual notice.

Removing verification requirements places service outcomes largely on chance, and based on consistent, firsthand experience, that chance of successful service—particularly on the first attempt—is low. This issue is not limited to private process servers; I have observed the same results with service attempts conducted by Sheriff's Offices.

Adopting this amendment would likely increase failed service attempts, create additional delays, and place a greater administrative burden on both litigants and the courts. Rather than streamlining proceedings, it risks postponing critical case activity and slowing the judicial process overall.

For these reasons, I urge careful reconsideration of the proposed changes.

Respectfully,
Danielle Crum

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0191

Tracking Number

mlg-y0i4-nf4d

Comment Details | **Submitter Info**

Received Date

Feb 10, 2026

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Comment from GN Process Servers

Posted by the **United States Courts** on Feb 11, 2026

Comment

This will ruin due process, and our businesses if passed, there goes the integrity of the service of process!

Comment ID
USC-RULES-CV-2025-0004-0192

Tracking Number
mlg-ykje-q6qr

Comment Details | **Submitter Info**

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Feb 10, 2026

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Comment from Pritchard, Scott

Posted by the **United States Courts** on Feb 11, 2026

Comment

I am completely opposed to the rules change. The USPS is unreliable and who is to say the person actually received their documents. Having it personally served by a professional that is swearing under the penalty of perjury that it was done properly is the best and most accurate resolution. If federal agents are too overloaded to serve subpoenas for the federal courts, then have it sent only to process servers. But process servers should be the ones that are handling the delivery of any court documents. Assuming someone got it when sent through the mail is the wrong answer.

Comment ID
USC-RULES-CV-2025-0004-0193

Tracking Number
mlg-ysnh-f19z

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Feb 10, 2026

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Comment from Horiuchi, David

Posted by the **United States Courts** on Feb 11, 2026

Comment

Hello, please see attached letter.

Attachments 1

David Horiuchi_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0194/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0194

Tracking Number
mlg-z1ir-qyes

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Professional Legal Services & investigations, LLC to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

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- shared or unsecured mailrooms, and
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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
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2. **Growing vendor automation**, shifting service away from skilled professionals.
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This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Attorneys Subpoena Service, Inc.

Posted by the **United States Courts** on Feb 11, 2026

Comment

Most process servers can attest to the fact that service of process by any other means than serving the document personally to a deponent/defendant is unreliable and will create more problems than the few you think you're trying to fix with this proposal. We take our responsibilities much more seriously than USPS or any other mail delivery service. This proposal will degrade the process which has and remains the most reliable method of service. Please rethink this initiative and kindly leave the current rule in tact.

Comment ID
USC-RULES-CV-2025-0004-0195

Tracking Number
mlg-z3x7-wxsp

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Comment Details | **Submitter Info**

Received Date
Feb 10, 2026

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Comment from Bucklew, Nicole

Posted by the **United States Courts** on Feb 11, 2026

Comment

I oppose the proposed amendments to Federal Rule of Civil Procedure 45 that would authorize non-personal methods of subpoena service such as U.S. Mail, commercial carriers, or other alternative means. These methods are inherently unreliable and invite fraud and error. Mail is routinely delayed, misdelivered, or never received at all, and email service is frequently filtered, diverted to spam, or blocked entirely without the recipient's knowledge. Proof of "delivery" does not equate to proof of actual notice, particularly for legal documents that impose compulsory obligations. Expanding service beyond personal delivery increases disputes, undermines due process, and shifts uncertainty onto courts and litigants. Professional process servers exist precisely to ensure subpoenas are delivered accurately, verifiably, and in a manner courts can trust. Subpoena service should remain with trained professionals, not unreliable delivery systems.

I ask the Committee to carefully weigh the real-world economic and procedural impacts of these proposed changes and to engage directly with those who work in this field before adopting any amendments to Rule 45.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0196

Tracking Number

mlg-z875-bj04

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Comment from All Broward Process Corp

Posted by the **United States Courts** on Feb 11, 2026

Comment

This will undermine due process. Professional Process Server serve process so that the court knows the documents were noticed correctly.

Comment ID
USC-RULES-CV-2025-0004-0197

Tracking Number
mlg-zce8-0h11

Comment Details | Submitter Info

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Comment from Vause's Process Service

Posted by the **United States Courts** on Feb 11, 2026

Comment

To Whom It May Concern,
I have reviewed the proposed amendment and feel compelled to comment based on my professional experience processing returns of service for civil process servers.
Permitting service by simply leaving documents at an address without verification of the subject's residence or employment—and/or then mailing documents to a "last known address"—does not promote effective or reliable service. In practice, this approach is largely ineffective.
A significant majority of the returns of service I process are ultimately returned as non-served, often multiple times, until a valid address can be identified. Frequently, the addresses provided are vacant, the intended recipient has moved, or a business has closed or relocated. In these situations, documents are effectively left with no one, defeating the fundamental purpose of service of process: providing actual notice.
Removing verification requirements places service outcomes largely on chance, and based on consistent, firsthand experience, that chance of successful service—particularly on the first attempt—is low. This issue is not limited to private process servers; I have observed the same results with service attempts conducted by Sheriff's Offices.
Adopting this amendment would likely increase failed service attempts, create additional delays, and place a greater administrative burden on both litigants and the courts. Rather than streamlining proceedings, it risks postponing critical case activity and slowing the judicial process overall.
For these reasons, I urge careful reconsideration of the proposed changes.
Robin Ridley

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Comment ID

USC-RULES-CV-2025-0004-0198

Tracking Number

mlg-zvvt-274h

Comment Details | **Submitter Info**

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Comment from Burke Process Service

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

To Whom It May Concern,

I am writing to submit a formal public comment in opposition to the proposed amendments to Federal Rule of Civil Procedure 45 regarding service of subpoenas and related procedural changes.

While I appreciate the intent to modernize and streamline service procedures, the proposed amendments raise serious practical and legal concerns that risk undermining due process, reliability of service, and the integrity of subpoena enforcement.

First, expanding subpoena service to include service by mail or commercial carrier, even with confirmation of receipt, weakens the reliability and verifiability of service. Personal service has long been the gold standard because it provides clear proof of delivery, ensures the recipient understands the legal nature of the documents, and reduces disputes over whether service was properly effected. In real-world practice, delivery confirmations and signatures are frequently unreliable, may be signed by third parties, or may not reflect actual receipt or comprehension by the named individual. This change is likely to increase litigation over service sufficiency rather than reduce it.

Second, authorizing alternative service methods for subpoenas, even with court approval, creates the potential for inconsistent application across jurisdictions and courts. What constitutes a method “reasonably calculated to give notice” is highly subjective and may result in uneven standards, forum shopping, and additional motion practice. The existing framework already provides adequate mechanisms for addressing difficult service situations without expanding into vague and potentially exploitable alternatives.

Third, the proposed 14-day minimum notice requirement for subpoenas commanding appearance, while well-intentioned, does not adequately account for the realities of litigation. Many matters involve legitimate time-sensitive needs, emergency hearings, and expedited discovery. Imposing a rigid notice period risks delaying justice, increasing costs, and burdening litigants who already operate under strict court-imposed

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deadlines. Although courts may shorten the period for good cause, the added procedural hurdle invites additional motion practice and delay.

Finally, removing the requirement that witness fees be tendered at the time of service undermines a long-standing safeguard designed to protect non-parties from being burdened by legal proceedings without proper compensation. In practice, requiring tender at the time of service promotes fairness, transparency, and compliance. Allowing tender to occur later increases the likelihood of disputes, confusion, and non-compliance, and may place undue financial and logistical burdens on witnesses.

Collectively, these amendments shift the balance away from certainty, fairness, and procedural reliability. Rather than simplifying subpoena practice, the proposed changes are likely to create new grounds for challenge, increase disputes over service validity, and place additional burdens on courts, litigants, and non-party witnesses.

For these reasons, I respectfully urge the Committee to reconsider and reject the proposed amendments to Rule 45 in their current form. Any modernization of service rules should prioritize clarity, consistency, due process, and the protection of non-parties, while preserving the proven reliability of established service methods.

Thank you for the opportunity to provide comment on this important matter.

Comment ID

USC-RULES-CV-2025-0004-0199

Tracking Number

mlh-03zz-16mf

Comment Details | **Submitter Info**

Received Date

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Comment from Thomas Process LLC

Posted by the **United States Courts** on Feb 11, 2026

Comment

As a process server & business owner for the past 30 yrs, I believe this proposed rule change will do more harm than good. Currently, mail sent via Certified Mail, Return Receipt is already being signed for by the postal carriers and not the intended addressee, therefore, the abililty to enforcement a subpoena sent this way will be costly, timely and almost impossible.

Comment ID
USC-RULES-CV-2025-0004-0200

Tracking Number
mlh-0d1p-cuwp

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Comment Details | **Submitter Info**

Received Date
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Comment from Class Action Research & Litigation

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Attached is my objection to the proposed amendment to the FRCP Rule 45. This proposed change negatively affects the lives of thousands of Americans who depend on this industry to support their families. Most of us are small business owners but we provide critical support and benefits to thousands of Americas. Changing this rule will SIGNIFICANTLY affect our business, our local economies and our ability to keep our employees employed. PLEASE RETHINK THIS PROPOSAL.

Attachments 1

NAPPS DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0201/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0201

Tracking Number

mlh-38lt-cj9g

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *Janis Dingman, Class Action Research & Litigation*
Date: 02/10/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *Class Action Research & Litigation*, a legal services provider, to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners. Many of us have devoted our lives to this industry, employing people in our local economies. I pay my employees a livable wage, supplying health care benefits to them and allowing them to support their families monetarily and emotionally. I also forward work to most every other state in the nation, which helps keep those small companies in business. If we lose the business of serving records subpoena then I will be forced to cut my staff to remain in business. This decision has a MAJOR ripple effect across all 50 states. I may be a little guy but lots of us little guys add up to a lot. I still impact our economy and better the lives of many people.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Janis Dingman, CEO
Class Action Research & Litigation
P O Box 740
Penryn, CA 95663
916-663-2562

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Comment from Hadfeg, Mariana

Posted by the **United States Courts** on Feb 11, 2026

Comment

I oppose these changes..

Comment ID
USC-RULES-CV-2025-0004-0202

Tracking Number
mlh-3q0a-5210

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Comment from All Star Court Services Inc.

Posted by the **United States Courts** on Feb 11, 2026

Comment

This rule will erode due process and should not be passed.

Comment ID
USC-RULES-CV-2025-0004-0203

Tracking Number
mlh-3qnj-0yua

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Comment from RJJ Process LLC

Posted by the **United States Courts** on Feb 11, 2026

Comment

This rule will erode due process and should not be passed.

Comment ID
USC-RULES-CV-2025-0004-0204

Tracking Number
mlh-3s1j-hvx8

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Comment from Haraminac, Dorothy

Posted by the **United States Courts** on Feb 11, 2026

Comment

Dear Judge Bates and Judge Rosenberg,

I am an experienced forensic practitioner and the country's foremost testifying expert in civil cases where emerging technologies, such as blockchain data, machine-generated outputs, and crypto assets, are at issue. I have introduced and defended new methodologies, obtained their admissibility and acceptance, faced and overcome exclusion, explained complex technical outputs from a wide variety of emerging technology (public and proprietary) and provide training to others such as the judiciary, attorneys, law enforcement, and competitors.

These proposed rule changes have a direct, practical impact on my profession and on tangential professions, such as other licensed private investigators who perform process service. Proposed Rule 707 has the most impact, and is addressed in a separate letter; Proposed Rules 26 & 45 are addressed herein. My work depends on the accuracy of notice, cost allocation, and the integrity of technical testimony. I am concerned these changes introduce ease at the expense of accuracy and encourage misrepresentations of service.

Accordingly, I recommend the following in summary, and provide specific language in the attached letter:
1. Eliminate the early appearance-election requirement and resolve cost ambiguities in proposed changes to Rules 45(c)(2) and 26(a)(3)(A)(i).
2. Eliminate the proposed additions of 45(b)(1)(A)(ii), (iii) and (iv) or in the alternative, revise the language to clarify confirmation of receipt, specify documentation standards, identify appropriate causes for shortening the notice period, and impose strict penalties on any misrepresentation as to service.

My opinions are my own.

Kind regards,
Dorothy Haraminac

Certified Fraud Examiner (CFE), Association of Certified Fraud Examiners

Give Feedback

Master Analyst in Financial Forensics (MAFF), National Association of Certified Valuators and Analysts
Licensed Private Investigator (PI), Texas Department of Public Safety
Certified Cryptocurrency Investigator (CCI), Blockchain Intelligence Group
Founder, Forensics Board Association (a trade association dedicated to establishing and maintaining standards for digital, financial, and blockchain forensics)
Founder, YBR Consulting Services, LLC (a digital, financial, and blockchain forensics firm)
Co-Founder, Kiribex, Inc (patent protected, global, fungible carbon reduction and the exchange thereof)
Board Member, Leadership Initiatives Board for National Association of Certified Valuators and Analysts
Editorial Board Member, The Value Examiner, an independent, professional development journal dedicated to the exploration of value and its ramifications for consultants.

Attachments 1

Haraminac Comment Rules 26 and 45 s

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0205/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0205

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February 10, 2026

Via Electronic Submission
Honorable John D. Bates, Chair of the Committee on Rules of Practice & Procedure
Robin L. Rosenberg, Chair of the Advisory Committee on Civil Rules
Judicial Conference of the United States
One Columbus Circle Northeast
Washington, D.C. 20544

RE: Request for Comments on Proposed Changes to Rules of Civil Procedure 26 and 45

Dear Judge Bates and Judge Rosenberg,

I am an experienced forensic practitioner and the country's foremost testifying expert in civil cases where emerging technologies, such as blockchain data, machine-generated outputs, and crypto assets, are at issue. I have introduced and defended new methodologies, obtained their admissibility and acceptance, faced and overcome exclusion, explained complex technical outputs from a wide variety of emerging technology (public and proprietary) and provide training to others such as the judiciary, attorneys, law enforcement, and competitors.

These proposed rule changes have a direct, practical impact on my profession and on tangential professions, such as other licensed private investigators who perform process service. Proposed Rule 707 has the most impact, and is addressed in a separate letter; Proposed Rules 26 & 45 are addressed herein. My work depends on the accuracy of notice, cost allocation, and the integrity of technical testimony. I am concerned these changes introduce ease at the expense of accuracy and encourage misrepresentations of service.

Accordingly, I recommend the following in summary, and provide specific language below:

1. Eliminate the early appearance-election requirement and resolve cost ambiguities in proposed changes to Rules 45(c)(2) and 26(a)(3)(A)(i).
2. Eliminate the proposed additions of 45(b)(1)(A)(ii), (iii) and (iv) or in the alternative, revise the language to clarify confirmation of receipt, specify documentation standards, identify appropriate causes for shortening the notice period, and impose strict penalties on any misrepresentation as to service.

Recommendation 1 (Rules 45(c)(2) and 26(a)(3)(A)(i)): Remove the early appearance-election requirement and resolve cost ambiguities

The proposed requirement that a party specify, at the time of witness designation, whether testimony will occur in person or remotely does not reflect litigation practice. That decision is typically made far closer to the testimony date, when witness availability, case demands, cumulative costs, and logistical considerations are known. Requiring an early declaration restricts flexibility and imposes commitments that may later conflict with practical and financial realities. Although the Committee aims to clarify that disclosure rules apply regardless of the testimony method, the proposed language does not achieve this goal without introducing unintended constraints.

Additionally, the remote-related Committee Note to Rule 45(c)(2) creates uncertainty regarding costs and technical requirements for remote testimony. By requiring the serving party to ensure "necessary

technology" at a remote location, without defining those requirements or addressing responsibility for technical failures, the proposal may inadvertently obligate the serving party to secure and fund a suitable location, without any specificity as to what determines suitability, which may effectively increase burdens rather than reduce them. Current rules are sufficient to ensure a videographer, court reporter, and other technical requirements are provided by the serving party. Given these concerns, and the lack of demonstrated need for this change, the proposal should be withdrawn.

Recommended Language: No language; Eliminate the proposed changes in 26(a)(3)(A)(i) and 45(c)(2).

Recommendation 2 (Rule 45(b)(1)(A)(ii), (iii) and (iv)): Expansion of service allows an unidentified neighbor to receive my service and, as a result, I shall be deemed served
The proposed amendments substantially expand who may accept service on a named person's behalf and, without further constraint, risk deeming service effective when no actual notice occurred. Part (ii) would permit service on an unidentified individual who merely appears to be "of suitable age," without any criteria for determining suitability or any requirement that the individual be connected to the party. The expanded concepts of "dwelling" and "usual place of abode" could likewise allow service at locations bearing no meaningful relationship to the intended recipient. Such ambiguity undermines the fundamental purpose of ensuring reliable delivery of compulsory process.

Part (iii) would treat various delivery confirmations by commercial carriers or the USPS as conclusive proof of service, despite frequent misdelivery, incomplete delivery, or delivery scans that do not reflect actual receipt by the named individual. Because these entities are not officers of the court and their delivery records are not reliability measures, elevating their records to determinative proof creates an unacceptable risk that a party will be deemed served without ever receiving notice.

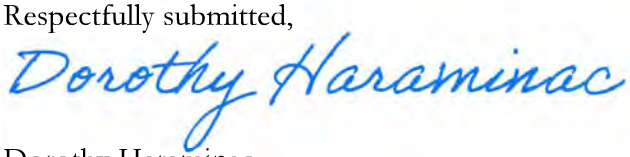
Part (iv) introduces a broad "any other means" provision, without accompanying standards or procedural safeguards. Without clear limits, this provision could be used to justify service methods insufficiently tethered to actual notice, exposing parties to obligations or sanctions without the reliability protections that compulsory service demands.

To avoid inconsistent application and protect the integrity of notice, these proposed additions should be removed or substantially narrowed. These changes further encourage misrepresentations of service, against which recourse is severely limited, whereby a named person is reported as served despite clear evidence that notice was not provided to the named person. For these reasons, the proposed additions to Rule 45(b)(1)(A)(ii), (iii), and (iv) should be removed.

Recommended Language: No language; eliminate the proposed additions of 45(b)(1)(A)(ii), (iii) and (iv) or, in the alternative, revise the language to clarify confirmation of receipt, specify documentation standards, identify appropriate causes for shortening the notice period, and impose strict penalties on any misrepresentation as to service, "A delivery scan or other proof of delivery to an address or person, without additional identification of and corroboration of receipt by the named person, does not by itself constitute confirmation of receipt. No delivery to a minor shall constitute confirmation of receipt. The court may impose appropriate sanctions for any misrepresentation of service, including an adverse inference regarding the validity of service and injunctive relief."

My opinions are my own.

Respectfully submitted,



Dorothy Haraminac

Certified Fraud Examiner (CFE), Association of Certified Fraud Examiners
Master Analyst in Financial Forensics (MAFF), National Association of Certified Valuators and Analysts
Licensed Private Investigator (PI), Texas Department of Public Safety
Certified Cryptocurrency Investigator (CCI), Blockchain Intelligence Group
Founder, Forensics Board Association (*a trade association dedicated to establishing and maintaining standards for digital, financial, and blockchain forensics***)**
Founder, YBR Consulting Services, LLC (*a digital, financial, and blockchain forensics firm***)**
Co-Founder, Kiribex, Inc (*patent protected, global, fungible carbon reduction and the exchange thereof***)**
Board Member, Leadership Initiatives Board for National Association of Certified Valuators and Analysts
Editorial Board Member, *The Value Examiner,* an independent, professional development journal dedicated to the exploration of value and its ramifications for consultants.

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Comment from New York County Lawyers Association, Federal Courts Committee

Posted by the **United States Courts** on Feb 11, 2026

Comment

See attached file(s)

Attachments 1

NYCLA Comments (Proposed Rules)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0206/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0206

Tracking Number
mlh-4su0-15t6

Comment Details | **Submitter Info**

New York County Lawyers Association

February 10, 2026

Via Electronic Submission
Honorable John D. Bates, Chair
Committee on Rules of Practice and Procedure

Re: Response to Request for Public Comment on Proposed Local Rules Amendments

Dear Judge Bates:

The New York County Lawyers Association's Federal Courts Committee (the "Federal Courts Committee") respectfully submits this letter in response to the Judicial Conference Committee on Rules of Practice and Procedure's invitation to provide comments on the proposed amendments to existing rules and forms announced in a memorandum dated August 15, 2025 (the "Proposed Changes").[1] *See* Preliminary Draft, Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence (Aug. 15, 2025) (the "Proposed Changes").[2]

The Federal Courts Committee sets forth below its comments to (1) the proposed changes to Federal Rule of Criminal Procedure 17; (2) the proposed Federal Rule of Evidence 707; and (3) the proposed changes to Federal Rules of Civil Procedure 26 and 45. The Federal Court Committee thanks the Committee on the Rules of Practice and Procedure for the opportunity to comment on the proposed amendments and the Rules Advisory Committees for their diligent work in preparing these amendments.

I. Proposed Changes to Federal Rule of Criminal Procedure 17

The Federal Courts Committee commends the Advisory Committee on Criminal Rules (the "Criminal Rules Committee") on its decision to modernize Federal Rule of Criminal Procedure 17 ("Rule 17"). However, the Federal Courts Committee believes that additional changes are needed beyond those reflected in the Report of the Advisory Committee on Criminal Rules dated May 15, 2025 ("Report").

The Federal Courts Committee believes that there are numerous problems with the present rule, including that it has been inconsistently applied, overly restricts a criminal defendant's ability to obtain discovery from third parties, and does not account for changes in the nature of discovery since its original adoption in 1944. We therefore endorse the Criminal Rules Committee's decision to review and propose amendments to Rule 17.

In particular, the Federal Courts Committee notes its agreement with the Criminal Rules Committee's decision to clarify that Rule 17(c) applies not only to trials but also permits parties

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[1] This letter was approved for dissemination by NYCLA's President as a Committee statement. This statement has not been approved by the NYCLA Board of Directors and does not necessarily represent the views of the Board.

[2] *Available at* https://www.uscourts.gov/sites/default/files/document/preliminary-draft-of-proposed-amendments-to-federal-rules_august2025.pdf.

to subpoena materials in connection with sentencing, suppression, detention, and revocation hearings. As the Criminal Rules Committee noted, parties often present evidence at these types of proceedings, and the Federal Courts Committee agrees that, to the extent there is a need for third-party evidence, the parties should have the opportunity to obtain it through a Rule 17(c) subpoena.

The Federal Courts Committee also agrees with the Criminal Rules Committee's decision to modify the test that the Supreme Court articulated in *United States v. Nixon*, 418 U.S. 683 (1974), but believes that the Criminal Rules Committee's proposal to "incremental[ly] change" the *Nixon* standard does not go far enough to remove the impediments to a criminal defendant's ability to mount an effective defense and to rectify the unfair imbalance between the prosecution and defense in preparing for trial. In particular, as discussed below, the Federal Courts Committee believes that the Criminal Rules Committee should have adopted the proposal of the New York City Bar's White Collar Committee to replace the *Nixon* "admissibility" requirement with a standard that permitted both the prosecution and the defense to obtain Rule 17(c) discovery that is "relevant and material to the preparation of the prosecution or defense" or, at the very least, should have approved the "likely to lead to admissible evidence" standard supported by a minority of the Criminal Rules Committee. *See* Report § II.A.2.

As the Criminal Rules Committee noted, almost all federal courts now apply the *Nixon* test to restrict the scope of Rule 17(c) subpoenas. The *Nixon* test generally requires the subpoena proponent to "clear three hurdles," specifically, (1) relevancy; (2) admissibility; and (3) specificity. *Nixon*, 418 U.S. at 700.

The Federal Courts Committee agrees with the Criminal Rules Committee's decision to replace *Nixon's* specificity requirement with a "reasonable particularity" standard. *See* Report § II.A.2. Multiple courts have recognized the unfairness of the current specificity requirement, which some courts have interpreted in a manner that conditions a criminal defendant's ability to obtain needed documents that he/she has never seen before on the ability to adequately specify their contents. The Federal Courts Committee agrees with then-District Judge Richard J. Holwell's observation that "requiring the defendant to specify precisely the documents he wants without knowing what they are borders on rendering Rule 17 a nullity." *United States v. Rajaratnam*, 753 F. Supp. 2d 317, 321 n.1 (S.D.N.Y. 2011). The Federal Courts Committee therefore endorses the Criminal Rules Committee's decision to replace the specificity requirement with a "reasonable particularity" standard, which mirrors the standard applicable to civil document discovery under Federal Rule of Civil Procedure 34(b).

As to the proposed modification of *Nixon's* admissibility requirement, the Federal Courts Committee believes that the Criminal Rules Committee's proposed change to a "likely admissible" standard does not go far enough to eliminate the problems with *Nixon's* admissibility requirement. As the Criminal Rules Committee noted in its Report, courts have applied inconsistent standards to this element, with some courts applying a stricter standard requiring "the requesting party to prove with certainty that the information would be admitted." *See* Report § II.A.2. This interpretation has often unfairly prevented defendants from obtaining exculpatory evidence, including impeachment material, leading practitioners to correctly opine that "courts have interpreted 17(c) so narrowly that it is rarely useful to criminal defendants, and instead serves as an additional tool for the prosecution." Robert G. Morvillo *et al., Motion Denied: Systematic Impediments to White Collar Criminal Defendants' Trial Preparation,* 42 Am. Crim. L. Rev. 157, 160 n. 12 (2005).

In expanding the discovery obligations under Federal Rule of Criminal Procedure 16 in 1974, the Criminal Rules Committee espoused the view that

> broad discovery contributes to the fair and efficient administration of criminal justice by providing the defendant with enough information to make an informed decision as to plea; by minimizing the undesirable effect of surprise at the trial; and by otherwise contributing to an accurate determination of the issue of guilt or innocence.

Fed. R. Crim. P. 16, Advisory Committee's Note to the 1974 Amendment. The Federal Courts Committee agrees with that perspective and believes that the Criminal Rules Committee should apply the same philosophy in revising Rule 17. Doing so, the Federal Courts Committee believes, means using the materiality standard.

In addition, unlike the prosecution, which has a broad ability to collect documents from third parties through, among other things, grand jury subpoenas and search warrants, a Rule 17(c) subpoena is a criminal defendant's only vehicle to compel production of materials from third parties, including materials that are helpful or necessary to cross-examine the prosecution's witnesses. A broader Rule 17(c) standard therefore strengthens the constitutional guarantee that provides criminal defendants "'a meaningful opportunity to present a complete defense,'" *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (quoting *California v. Trombetta* 467 U.S. 479, 485 (1984)), which includes "the right to confront their accusers" through cross-examination. *United States v. Tucker*, 249 F.R.D. 58, 67 (S.D.N.Y. 2008). As then-District Judge Shira A. Scheindlin opined, the confrontation "right is meaningless if a defendant is denied the reasonable opportunity to obtain material evidence that could be crucial to that cross-examination." *Id.*

While the Criminal Rules Committee's rejection of the stricter *Nixon* admissibility standard is an important step in the right direction, the Federal Courts Committee does not believe that it goes far enough to safeguard a criminal defendant's constitutional rights. For example, in *Thor v. United States*, 574 F.2d 215 (5th Cir. 1978), the defendant was unable to locate witnesses who he believed had exculpatory evidence and sought to subpoena an address book that he believed contained their addresses. *Id.* at 219. The Fifth Circuit upheld the district court's denial of the subpoena on the ground that the address book was "not evidentiary" and therefore not available pursuant to a Rule 17(c) subpoena. *Id.* at 220. While the address book would meet a materiality standard, it would probably not meet the "likely to be admissible" standard proposed by the Criminal Rules Committee.

Similarly, the hypothetical set forth in the New York City Bar's White Collar Committee's letter provides another example in which the materiality and "likely to be admissible" standards may lead to divergent results. In the hypothetical, initially posed in Alan Silber and Lin Solomon, *A Creative Approach for Obtaining Documentary Evidence From Third Parties* (July 17, 2017), *available at* https://www.pashmanstein.com/printpilot-publication-a-creative-approach-for-obtaining-documentary-evidence-from-third-parties.pdf?1768597874, a defendant in an embezzlement prosecution believes that the financial data of a family business that encrypts its data using highly sophisticated software contains exculpatory evidence that would exonerate him. This hypothetical defendant filed a motion under Rule 17(c) to obtain both the data itself and the software program that would allow him to access the data. Even if the data itself meets the "likely to be admissible" standard, the necessary software program likely would not, with the result being that this defendant would

not be able to access this evidence. Conversely, the hypothetical software program would satisfy a materiality standard.

Moreover, the Criminal Rules Committee's stated concern in Section II.A.2 of the Report that a broader materiality standard may lead to "fishing expeditions" can be better addressed by retaining the limitation in current Rule 17(c) that affords courts the discretion to quash or modify subpoenas that are "unreasonable or oppressive." As opposed to categorically preventing criminal defendants from accessing certain materials that the Federal Courts Committee believes are necessary to present a complete defense, adopting a broader Rule 17(c) standard while retaining the current language authorizing courts to quash or modify overbroad subpoenas promotes the fair and efficient administration of criminal justice, especially given the inherently fact-dependent nature of discovery issues.

Accordingly, the Federal Courts Committee believes that the Criminal Rules Committee should have instead adopted the materiality standard proposed by the New York City Bar's While Collar Committee, or, alternatively, a "likely to lead to admissible evidence" standard, in clarifying and revising *Nixon's* admissibility requirement.

We thank the Criminal Rules Committee for the opportunity to comment on the proposed changes.

II. Proposed Federal Rule of Evidence 707

The Federal Courts Committee also wants to highlight its support for the proposed Federal Rule of Evidence 707 ("Rule 707") and suggests a few additional changes as set forth below. This proposed new rule would impose a standard for admission of "machine-generated" evidence, applying to that evidence the reliability and fit thresholds applied to expert testimony under Federal Rule of Evidence 702. Under the current rules, certain types of evidence generated by artificial intelligence programs can be admitted without an expert or other witness to vouch for (and be cross-examined on) the reliability of that evidence. While Federal Rule of Evidence 403 offers litigants the ability to object to such evidence, the proposed new Rule 707 provides greater clarity by utilizing the familiar Rule 702 standard and imposing a gatekeeper role on the Court.

The Federal Courts Committee respectfully wishes to raise two comments for consideration before the new Rule 707 is finalized. First, the Federal Courts Committee suggests including in Rule 707 a definition of "machine-generated evidence" to mean "evidence generated by a machine-based process or system to make predictions or draw inferences from existing data." This definition, which adopts the language in the proposed Committee Note to the new Rule 707, more closely tracks the new rule's purpose to ensure testing of potentially unreliable predictive and inferential software and systems, such as algorithms or machine-learning output. The Federal Courts Committee's proposed definition also addresses concerns that the phrase "machine-generated evidence" is too broad because it would make clear that machine-generated materials that are not created by artificial intelligence are excluded. For example, the Federal Courts Committee's proposed definition would exclude spreadsheets, emails, digital files of audio recordings like voicemails, computer-generated music in an audio or video file, and documents created using a word processor (like this letter)—which are machine-generated but not typically used to make predictions or draw inferences from existing data.

Second, the Federal Courts Committee echoes the suggestion of the American Civil Liberties Union that the rule should be revised as follows (proposed additions underlined and proposed deletions crossed out): "When machine-generated evidence is offered without an expert witness and would be subject to Rule 702 if testified to by a witness, the court may admit the evidence only if it is limited to evidence not based on scientific, technical, or other specialized knowledge or if expert testimony in support of the evidence satisfies the requirements of Rule 702(a)-(d). ~~This rule does not apply to the output of simple scientific instruments.~~" The Federal Courts Committee suggests this revision for two reasons. First, it resolves concerns with unreliable methodologies and unreliable output by requiring an expert witness to testify in support of complex evidence whose reliability could not be established by a layperson operator or supervisor. Second, this revision clarifies the scope of applicable evidence by eliminating the vague phrase "simple scientific instruments" and instead harmonizing the proposed rule's language with that of Rules 701 and 702 regarding "scientific, technical, or other specialized knowledge." Enabling proponents of evidence that is not based on such knowledge to establish its admissibility without extensive proceedings, such as those that apply under Rule 702, should reduce the risk of overwhelming courts with the need to spend time on each submission of evidence, especially as machine learning is increasingly used to generate and supplement even the simplest kinds of information. For example, the Federal Courts Committee notes that summaries of voluminous evidence, permitted under Federal Rule of Evidence 1006, can often be better organized and prepared for presentation to a jury by a machine, without necessitating Federal Rule of Evidence 702-type inquiries into reliability.

The Federal Courts Committee also suggests that the Advisory Committee consider the application of the rule to evidence not offered for its truth.

The Federal Courts Committee applauds the Advisory Committee on Evidence Rules for its effort to establish rules governing this difficult technological area, especially given the speed with which machine learning and artificial intelligence technology have changed over time.

III. Proposed Changes to Federal Rules of Civil Procedure 26 and 45

The Federal Courts Committee also wants to highlight its support for the Advisory Committee on Civil Rules' (the "Civil Rules Committee") proposed amendments to Federal Rules of Civil Procedure 26 ("Rule 26") and 45 ("Rule 45").

The Civil Rules Committee has proposed a narrow, targeted amendment to Rule 26(a)(3)(A)(i) that would require parties' pretrial disclosures to state whether any witness is expected to testify remotely, as opposed to in person. In practical terms, the amendment would require parties to identify in advance not only the witnesses they expect to present, but also the anticipated mode of that testimony. As the Civil Rules Committee stated in its report, this proposal is linked to the companion amendments to Rule 45(c) (place of compliance) and Rule 45(b)(1) (service of subpoenas) and was prompted by the Ninth Circuit's decision in *In re Kirkland*, 75 F.4th 1030 (9th Cir. 2023).

The practical problems the proposed amendments seek to address arise from the combined operation of Rule 45(b)(1)'s personal service requirement and Rule 45(c)'s geographic limits when those provisions are applied to subpoenas seeking only remote testimony. Both provisions were developed to govern subpoenas compelling physical presence

and travel, where territorial limits and personal service serve important due-process and fairness functions. When compliance is entirely remote, however, those concerns are not implicated.

The current interpretation of Rule 45(c) applied by some courts has produced results that are inconsistent with modern litigation practice. For example, under prevailing Ninth Circuit authority, a subpoena compelling remote testimony may be unenforceable absent personal service within the geographic limits of Rule 45(c), even where the witness would never be required to travel to the place of compliance. *See In re Kirkland*, 75 F.4th at 1042-47.

This result creates an unnecessary obstacle to remote depositions and testimony that does not meaningfully advance fairness or due process. The proposed amendment properly recognizes the distinction between remote and in-person compliance. It clarifies that territorial and service concepts designed for physical presence should not control subpoenas seeking remote testimony, which do not raise the same territorial or travel-based concerns and therefore should not be governed by service rules that no longer reflect modern practice.

The Federal Courts Committee believes that the amendment reflects contemporary litigation reality. Remote depositions and testimony are now routine, efficient, and widely accepted by courts and practitioners. The Federal Rules of Civil Procedure should reflect that reality. Remote testimony often reduces costs, minimizes witness burden, and increases access to evidence, particularly for non-party witnesses and parties of limited means. Where compliance occurs remotely, the traditional concerns underlying Rule 45(c)'s geographic limits are not implicated.

Importantly, existing protections under Rules 26(c) and 45(d) remain fully available to prevent undue burden, harassment, or abuse. Courts retain ample authority to limit, condition, or quash subpoenas where fairness concerns arise. The proposed amendment does not expand substantive subpoena power; it clarifies the permissible means of compliance.

From a practitioner's perspective, the amendment to Rule 26 functions as a sensible coordination measure rather than a substantive expansion of discovery obligations. Requiring advance disclosure of anticipated remote testimony promotes transparency and fairness by giving parties and courts an opportunity to assess logistical and technological considerations, raise Federal Rule of Civil Procedure 43 or Rule 45 issues in a timely manner, and avoid last-minute motion practice.

For these reasons, the Federal Courts Committee supports the proposed amendments to Rules 26 and 45.

New York County Lawyers Association

Scott B. Klugman and Michael B. Eisenkraft
Co-Chairs, Committee on the Federal Courts

Aasiya Glover, Matthew Goldstein, Irina Shpigel, and Hon. Joseph Kevin McKay (ret.)
Ad-Hoc Federal Rules Subcommittee

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PUBLIC SUBMISSION

Comment from Legal Process Service & Investigations LLC

Posted by the **United States Courts** on Feb 11, 2026

Comment

I'm opposed to the proposed amendment to FRCP Rule 45, specifically b1Aiii. This will threaten the livelihoods of thousands of small business owners and will allow for mailing of Subpoenas, which comes with numerous problems and will burden courts even more with challenges to service.

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PUBLIC SUBMISSION

Comment from Lien Amin, Lindsay

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Comment of Lindsay Lien on F.R.C.P. 45 (b) & (c).

Attachments 1

Rule Changes FRCP 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0208/attachment_1.pdf)

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Comment Details | **Submitter Info**

Received Date

NICOLET LAW
ACCIDENT & INJURY LAWYERS

February 10, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: Comments in Support of Amendments to Federal Rule of Civil Procedure 45(c) & 45(b)

Dear Members of the Rules Committee:

I write in support of the proposed amendments to Federal Rule of Civil Procedure 45(b) and (c).

By way of background, I have worked for more than a decade in federal civil litigation. I am admitted to practice before the District of Minnesota, the Western District of Wisconsin, the Eastern District of Wisconsin, and the District of North Dakota, and have been admitted pro hac vice to federal courts in California, Virginia, and Missouri. Many of these cases have involved claims made by individuals sickened by nationally distributed food products. Accordingly, I have regularly used Rule 45 to subpoena non-parties in a food item's supply chain.

I strongly support the related amendments to Rule 45(c), confirming the availability of subpoenas for remote testimony. Some courts have interpreted existing rules as limiting remote testimony to witnesses within 100 miles of the courthouse or within the state—a reading inconsistent with the realities of modern litigation and technological capability. Clarifying that the subpoena power extends *nationwide* for remote testimony ensures that critical witnesses are unavailable for testimony simply because they reside beyond traditional geographic limits.

On a practical level, this change promotes efficiency, reduces travel burdens, and ensures fair access to testimony in cases involving plaintiffs and witnesses spread across the country. In-person attendance away from the forum of an action is expensive for litigants and ignores the reality of litigation in 2026. Fortunately, videoconferencing is widely available.

I hope that further changes to the Rules continue to promote discovery by remote testimony when appropriate.

The proposed amendment to Rule 45(b) provides much-needed clarity regarding what constitutes effective service. As the Committee's published explanation notes, courts have historically disagreed about whether personal, hand-to-hand delivery is required, leading to unnecessary disputes, delays, and increased costs. By expressly permitting additional methods—including leaving a copy with a

suitable resident at a witness's home, sending a subpoena by mail or commercial carrier with confirmation of receipt, or utilizing alternative service methods authorized on a showing of good cause—the rule better reflects real-world challenges. These tools are especially important when dealing with individuals in secured buildings, gated communities, or residences where access is restricted. Even when a witness is not evading service, process servers sometimes wait hours for individuals to emerge from locations with restricted access. The proposed expanded methods of service would enable courts to approve alternative means reasonably calculated to provide notice when personal service is not possible.

For these reasons, I respectfully urge the Committee to adopt the proposed amendments to Rule 45(b) and (c).

Thank you for your consideration and for your continued work on improving the Federal Rules of Civil Procedure.

Sincerely,



Lindsay C. Lien Amin
Attorney, Nicolet Law Office S.C.

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PUBLIC SUBMISSION

Comment from Tauil, Nassim

Posted by the **United States Courts** on Feb 11, 2026

Comment

We are writing to warn you about a proposed federal rule change that could seriously reduce work for process servers across the country.

The proposal would change Federal Rule of Civil Procedure 45, making it easier to serve federal subpoenas without using professional process servers. If this rule is adopted, it would sideline trained, neutral professionals who play a critical role in making sure people receive proper notice.

This change doesn't just hurt process servers — it weakens due process. Proper service matters. When service is rushed, informal, or unverified, it increases the risk of missed notices, disputes, and unfair outcomes in court.

This proposal threatens our profession and the fairness of the legal system. It should not be adopted.

We urge you to take immediate action to oppose this rule change.

Give Feedback

Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0209/attachment_1.pdf)

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mlh-5u3m-w7wq

Comment Details | **Submitter Info**

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Feb 10, 2026

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
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- shared or unsecured mailrooms, and
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These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
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The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from Headley, Ross

Posted by the **United States Courts** on Feb 11, 2026

Comment

I strongly disagree with the suggested changes to FRCP 45. These modifications would weaken the dependability and accountability that professional service offers, drastically diminish the role of licensed process servers, and remove important safeguards in subpoena service. Enacting this rule would raise the possibility of incorrect or contested service and have a detrimental effect on the entire profession. This proposal shouldn't proceed.

Attachments 1

Public Comment Submission

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0210/attachment_1.pdf)

Give Feedback

Comment ID
USC-RULES-CV-2025-0004-0210

Tracking Number
mlh-73iv-744p

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Ross Headley
Date: 2/10/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

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Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Ross Headley, CPS
Headley Legal Support Services, Inc.

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Comment from Andrus, Lori

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

My comment supporting the proposed changes to Rul 45b is attached.

Attachments 1

Lori Andrus Comment in Support of Changes to Rule 45b

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0211/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0211

Tracking Number
mlh-88ze-mifg

Comment Details | **Submitter Info**

Received Date

ANDRUS ANDERSON LLP

February 10, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Comment in Support of Proposed Changes to Rule 45(b)

Dear Committee Members,

I submit this comment in support of the proposed changes to Federal Rule of Civil Procedure 45(b).

In my experience, it can be difficult and expensive to personally serve some individuals. In recent years, two examples stand out. In both, I had to pay process servers to conduct "stake outs" in order to serve a subpoena.

In the first instance, opposing counsel had refused to accept service of a deposition subpoena of one of their experts in a products liability matter. The expert was well known within the legal community, as he had testified for defendants in hundreds of cases over the years. He had a reputation within the legal community as someone who is known to evade service, and he lives and works in a gated community.

The second instance was more mundane, but still costly. In an employment class action, a former executive of the defending company (who was not in the control group), lives in a mansion in Malibu with walls surrounding his compound. After attempts to serve a deposition subpoena by knocking on his door were unsuccessful, I hired a process server to stake out the property. The process server was able to catch the witness as he was departing his home.

Both of these instances could have been avoided were it possible for me to serve via United States Mail (with return receipt) or by some other commercial carrier who could provide receipt of delivery. Those methods would have cost dollars rather than hundreds of dollars. They also would have been quicker than hiring professionals to spend hours staking out the residences of this expert witness and percipient witness.

Kind regards,



Lori E. Andrus

1970 Broadway · Suite 1070 · Oakland, California 94612
T: 415.986.1400 · F: 415.986.1400 · lori@andrusanderson.com

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Comment from Crone, Randy

Posted by the **United States Courts** on Feb 11, 2026

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See attached file(s)

Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0212/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0212

Tracking Number
mlh-ao7p-tgdq

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Delchambre , Bret

Posted by the **United States Courts** on Feb 11, 2026

Comment

Hello,
I oppose changing FRCP 45 as I believe it would significantly hurt my small business possibly put me out of business and negatively impactthe integrity of Process Serving.

Comment ID
USC-RULES-CV-2025-0004-0213

Tracking Number
mlh-fg60-ku9n

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Feb 10, 2026

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Comment from Sueiro Morell, David

Posted by the **United States Courts** on Feb 11, 2026

Comment

I'm opposed to rule change. It might affect not only Process Servers but also the integrity of any sort of legal services and procedures

Comment ID

USC-RULES-CV-2025-0004-0214

Tracking Number

mlh-i2td-w4dz

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Comment from KEY, JACK

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Attachments 1

FRCP RULE 45 PROPOSED AMENDMENTS

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0215/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0215

Tracking Number
mlh-i63q-trpp

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Jack L. Key, KEY PROCESS, LLC
Date: 2-11-26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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Jack L. Key, KEY PROCESS, LLC

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Comment from Sterbcow, Paul

Posted by the **United States Courts** on Feb 11, 2026

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Attachments 1

2026.02.11 Committee on Rules of Practice

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0216/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0216

Tracking Number
mli-5jzf-1dp2

Comment Details | **Submitter Info**

Received Date

LEWIS, KULLMAN, STERBCOW & ABRAMSON, LLC
ATTORNEYS AT LAW

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DAVID A. ABRAMSON
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JESSICA L. IBERT

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HARVEY J. LEWIS
LAWRENCE S. KULLMAN
CONRAD S.P. WILLIAMS, III
OF COUNSEL

DAVID ABRAMSON
DIRECT DIAL: (504) 588-1515
EMAIL: ABRAMSON@lksalaw.com

February 11, 2026

Committee on Rules of Practice and Procedure of the Judicial Conference of the United States

Re: Comments on Proposed Amendments to Federal Rule 45

To The Members of the Advisory Committee:

I have been practicing Maritime Personal Injury and Death Law in various Federal Courts for thirty-nine years. I provide the following comments on Fed. R. Civ. Proc Rules 45(b) and 45(c).

Rule 45 (b)

I fully support the proposed amendments to Rule 45(b). As a plaintiff attorney whose cases regularly cross state lines in terms of fact and expert witnesses, incident location and incident investigation, these rules will streamline and significantly increase the efficiency of the subpoena service procedure. The goal of subpoena service is to ensure that reasonable notice of the subpoena requirements are provided. This rule does so. It balances the challenge of multi state subpoena service with a fourteen-day notice provision. Further, while we will continue to use process servers, permitting transmission of a subpoena via U.S. Mail or commercial-carrier delivery, receipt required, significantly enhances the efficiency and ability of attorneys like us to accomplish subpoena service and prosecute our cases in the most timely, cost-efficient way. The rule also authorizes a court order permitting an additional method of service so long as that method is reasonably calculated to give notice. While this method would be utilized only upon a showing of good cause, it would be a helpful option as occasional creativity is sometimes needed to serve a person who is evading service. I fully support the proposed amendment to rule 45(b).

Rule 45(c):

The proposed amendment for remote testimony under Rule 45(c) is long overdue, reflecting the great need for reflexibility as courts and parties navigate the challenges of getting to the courthouse. We routinely handle cases where fact witnesses, treating medical professionals and expert witnesses are located outside of the State of Louisiana. The current rules require us to spend a great deal of time and money to (1) pay doctors and experts an extraordinary amount of money to travel to testify; or (2) spend time and money traveling to these experts to obtain video trial perpetuation depositions that often become stale and do not have the same courtroom impact as

live testimony. Juries want to hear witnesses testify live. The rule change permits this at the least cost and inconvenience to the witnesses and the party requiring the testimony. We fully support the proposed amendment to Rule 45(c) and urge the Advisory Committee to consider an additional amendment to Rule 43(a).

Respectfully,



Paul M. Sterbcow

PMS/cbr

An official website of the United States Government.

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PUBLIC SUBMISSION

Comment from Meador Investigations

Posted by the **United States Courts** on Feb 11, 2026

Comment

We respectfully oppose the proposed expansion of alternative service of process under the Federal Rules of Civil Procedure, as it risks weakening essential due process protections. Service of process is the fundamental mechanism that ensures defendants receive actual notice of legal proceedings. The current rule already provides courts with ample discretion to authorize alternative methods when traditional service is truly impracticable.

Lowering the threshold to permit service by mail through the Postal Service, digital platforms, or other means not involving a qualified process server raises serious concerns regarding reliability, verification, and accountability. Such changes increase the risk that defendants may not receive proper notice, thereby undermining due process.

Moreover, this proposal would have far-reaching consequences for the integrity of the federal court system and the livelihood of the professional process serving industry. The existing framework strikes an appropriate balance between flexibility and constitutional safeguards. Expanding alternative service methods beyond this standard threatens that balance and diminishes the protections that are essential to fair and just proceedings.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0217

Tracking Number

mli-85wi-lq79

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Comment from Warren, Irwin

Posted by the **United States Courts** on Feb 11, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

See Attached

Attachments 1

Irwin Warren Comment - Rule 45b

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0218/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0218

Tracking Number
mli-8d77-b2uh

Comment Details | **Submitter Info**

Received Date

IRWIN H. WARREN
300 Central Park West, #12F
New York, NY 10024

February 11, 2026

To: Judicial Conference Advisory Committee on Civil Rules

Re: Proposed amendments to Rule 45(b)

I have reviewed the currently proposed amendments to Rule 45 regarding service of subpoenas. I perceive a potential inconsistency in proposed Rule 45(b)(1)(A), regarding who must be the recipient of subpoenas in order for the Rule to be satisfied.

Specifically, under subsection (ii), delivery is sufficient if it is left at the recipient's place of abode, so long as it is given to "a person of suitable age and discretion who resides there". But under subsection (iii), if service is by mail or overnight [or similar] delivery, the method need only "provide[] confirmation of actual receipt", without specifying, describing or requiring receipt *by whom*. This could present a potential "real world" problem for many who have experience with, for example, a teenage child, a non-live-in/occasional housekeeper, an apartment building with one or more part-time mailroom attendants, etc.

I respectfully suggest that the "person of suitable age and discretion who resides there" proviso ought to be in both subsections, or else *expresio unius* could leave a serious inconsistency -- and real-world problems of actual notice, or even "best notice practicable," to the person who is subject to the subpoena -- where service under (iii) is concerned.

Thank you for your consideration of this suggestion.

Irwin H. Warren

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Comment from Johnston, Larry

Posted by the **United States Courts** on Feb 12, 2026

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Please see attached letter.

Attachments 1

LJ

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Comment ID
USC-RULES-CV-2025-0004-0219

Tracking Number
mli-a2gf-h6jw

Comment Details | **Submitter Info**

Received Date

Feb 11, 2026

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Professional Legal Services & investigations, LLC to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

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These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
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3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from Bolin, Matthew

Posted by the **United States Courts** on Feb 12, 2026

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Please see attached letter.

Attachments 1

MB

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Comment ID
USC-RULES-CV-2025-0004-0220

Tracking Number
mli-abbv-x9ka

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

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Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

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4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Spikes, Andrew

Posted by the **United States Courts** on Feb 12, 2026

Comment

Please see attached letter.

Attachments 1

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Comment ID
USC-RULES-CV-2025-0004-0221

Tracking Number
mli-acur-5ijf

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

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Comment from Fleckinger, Paul

Posted by the **United States Courts** on Feb 12, 2026

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Please see attached letter.

Attachments 1

PF

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Comment ID
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Tracking Number
mli-ae9b-a19p

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

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REBECCA LUNA

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Comment from O'Quinn, Christopher

Posted by the **United States Courts** on Feb 12, 2026

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Comment

Please see attached letter.

Attachments 1

CO

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Comment ID
USC-RULES-CV-2025-0004-0223

Tracking Number
mli-ag9e-7t8a

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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PUBLIC SUBMISSION

Comment from Lunsford, Nathan

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Please see attached letter.

Attachments 1

NL

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0224/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0224

Tracking Number
mli-aj5z-elbl

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Professional Legal Services & investigations, LLC to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Are You Being Served?, Inc.

Posted by the **United States Courts** on Feb 12, 2026

Comment

As a registered process server in California we have just had Assembly Bill 747 signed into legislation. This bill makes service regulations more comprehensive in order to notify subjects of their pending depositions lawsuits and hearings . This proposition to allow subpoenas to be served by electronic means, courier and mail is going to provide the deponent multiple reasons why they allegedly did not receive the documents. The Assembly Bill 747 in California promotes accountability of the servers and the proposition for the subpoenas is completely the opposite. There is no accountability for service by mail or courier. Electronic service is not reliable because not everybody checks their email regularly. I believe passage of this proposition will make service success worse not better. Also, please consider the process servers that will lose a great portion of their workload and that is scary for servers, like myself, who rely on process service to make a living and pay our bills. Respectfully Submitted, Jeffrey Pink - C.E.O. of Are You Being Served?, Inc., Burlingame, California

Give Feedback

Comment ID
USC-RULES-CV-2025-0004-0225

Tracking Number
mli-bouq-jztn

Comment Details | **Submitter Info**

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Comment from Wilson, Sherri

Posted by the **United States Courts** on Feb 12, 2026

Comment

I oppose the amendment. There is no guarantee of delivery of electronic delivery to the intended person/entity. It would greatly affect the case of the plaintiff or defendant. Please do not pass this amendment.

Comment ID
USC-RULES-CV-2025-0004-0226

Tracking Number
mli-ci1w-4g53

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Feb 11, 2026

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Comment from Alliance Civil Process, Inc.

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

This will destroy the integrity of due process.

Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0227/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0227

Tracking Number
mli-ec6g-gg23

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *Alliance Civil Process, Inc.* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

An official website of the United States Government.

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Comment from Attorney's Certified Services

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Dear Members of the Committee,

My name is Chad Barger, and I am the President of Attorney's Certified Services in California. I appreciate the opportunity to share my comments regarding the proposed amendments to Federal Rule of Civil Procedure 45.

Through my work and daily collaboration with process servers and legal support professionals throughout California, I see firsthand the important role we play in supporting the justice system. We serve as neutral, independent third parties whose responsibility is to ensure legal notice is delivered accurately, professionally, and without bias. By providing verifiable service, clear documentation, and strict adherence to statutory and ethical standards, we help protect the rights of all parties and promote fairness, transparency, and due process.

I strongly support innovation when it improves clarity, efficiency, and compliance. However, I believe procedural reforms should be guided by demonstrated need and should preserve the reliability that courts and litigants depend on. From my perspective, expanding the allowable methods of subpoena service risks introducing uncertainty without clear benefit.

Rule 45 governs subpoenas that often impose serious legal obligations on individuals, many of whom are not parties to the litigation. These obligations may include appearing in court, giving testimony, or producing confidential records under the threat of sanctions. Because of the significance of these requirements, dependable notice is essential.

In my experience, personal service remains the most consistent and reliable way to ensure that notice is actually received. It creates a documented chain of delivery, provides sworn proof of service, and offers an accountable third-party witness. This level of certainty helps courts resolve disputes efficiently and reduces unnecessary motion practice.

Give Feedback

By contrast, broader reliance on service by mail, email, or commercial delivery services may create additional questions rather than clarity. Issues surrounding actual receipt, address accuracy, or whether the recipient understood their obligations often arise only after deadlines have passed. These uncertainties can complicate enforcement and place unnecessary burdens on courts, litigants, and non-parties alike.

Predictable and consistent service standards benefit everyone involved. They minimize disputes, streamline proceedings, and protect individuals from unintended consequences. The relatively low number of Rule 45 disputes suggests that the current framework is functioning effectively.

While proposed safeguards such as signature confirmation or notice periods are helpful, they do not fully establish identity, authority, or comprehension in the way personal service does. In contested matters, these alternatives may not provide courts with the same level of confidence or clarity.

Based on my experience, I respectfully recommend:

Retaining personal service as the default method for subpoenas that compel testimony or appearance;

Allowing alternative service only after documented, unsuccessful attempts at personal service; and

Requiring affirmative evidence linking receipt to the intended witness when alternative methods are authorized.

Thank you for considering my comments and for the important work you do to maintain fairness and efficiency within the federal courts. I appreciate the opportunity to contribute to this discussion.

Respectfully,

Chad Barger
President
Attorney's Certified Services

Comment ID

USC-RULES-CV-2025-0004-0228

Tracking Number

mli-f50d-nabp

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Received Date

Feb 11, 2026

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PUBLIC SUBMISSION

Comment from Swanson, Teris

Posted by the **United States Courts** on Feb 12, 2026

Comment

I support the proposed amendments to Rules 45(b), 45(c), and 41(a) because they promote efficiency, reduce unnecessary procedural disputes, and better align the Rules with modern litigation practice. Expanding permissible methods of service under Rule 45(b) simply provides flexibility and does not eliminate the continued practicality of using professional process servers, which will remain the most convenient option in many cases. The amendment appropriately focuses on access and efficiency rather than protecting a particular service model. Rule 45(c)'s restoration of nationwide subpoena authority is likewise a sensible correction to the Ninth Circuit's decision in In re Kirkland, particularly given the routine use of remote technology. Allowing witnesses to appear live by remote means improves the quality of testimony and is often preferable to relying on stale deposition transcripts. Finally, the clarification to Rule 41(a) resolves an unnecessary circuit split by confirming that plaintiffs may voluntarily dismiss an entire action or individual claims, which reflects common litigation practice and avoids needless procedural traps. Together, these amendments make the Rules clearer, more consistent, and better suited to modern federal practice.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0229

Tracking Number

mli-fh8i-68k3

Comment Details | **Submitter Info**

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Comment from BURKE PROCESS SERVICE

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

This is a bad idea. More subpoenas would be ignored. Would also cause the demise of many Process service companies. making service of summonses difficult and more expensive.

Comment ID
USC-RULES-CV-2025-0004-0230

Tracking Number
mli-hfry-ngf0

Comment Details | **Submitter Info**

Received Date
Feb 11, 2026

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PUBLIC SUBMISSION

Comment from Support LLC, I Serve Legal

Posted by the **United States Courts** on Feb 12, 2026

Comment

Personal service remains the only reliable method in the legal field that ensures confirmed, documented receipt by the correct individual. Unlike mail or email, it provides verifiable proof of delivery and confirmation of the recipient's identity.

Mail and electronic service lack dependable safeguards for tracking, identity verification, and confirmation of actual receipt. These deficiencies increase the risk of improper service and subsequent disputes.

The current rule functions effectively and is not the source of systemic issues. Weakening Rule 45 would not solve existing problems—it would create new ones.

Moreover, changes at the federal level are likely to influence state rules, reshaping subpoena practice nationwide. The proposed amendments risk increasing defective service, generating more litigation over service disputes, and placing additional burdens on already strained courts.

Preserving the integrity of personal service protects due process and maintains confidence in the legal system.

Give Feedback

Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0231/attachment_1.pdf)

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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Based on decades of procedural evolution:

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2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
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VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Missouri Association of Trial Attorneys

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Joint letter from state trial lawyer associations on Amendments to Rule 81(c)

Attachments 1

FRCP 81 TLA Comment

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0232/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0232

Tracking Number
mli-ik9n-wsvd

Comment Details | **Submitter Info**

Received Date

February 11, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, NE
Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Re: Proposed Amendments to Rule 81(c)

Dear Members of the Committee on Rules of Practice and Procedure:

The undersigned state trial lawyer associations ("TLAs") respectfully submit this Comment to the Committee on Rules of Practice and Procedure ("Committee") in response to the proposed amendments to Federal Rule of Civil Procedure 81 ("Rule 81").[1] The TLAs sign this letter in their individual capacity as concerned stakeholders who support the constitutional right to trial by jury. Members of the TLAs represent clients who have suffered personal injury, wrongful death, discrimination, and other consumer harms. Each TLA organization is its own legal entity with its own organizing document, members, budget, and board. While the organizations are independent, they share a common mission of promoting fair and efficient civil justice by protecting the constitutional right to a jury trial.

Introduction

For nearly two decades, the language of Rule 81(c) has created confusion among the trial bar as to whether and when a jury trial demand must be made in cases removed from state to federal court. In some cases, this confusion has resulted in the deprivation of the right to a jury trial. Members of this Committee previously acknowledged that the Rule, as restyled in 2007, could be "misleading" and that amendment "seems warranted by the risk of confusion."[2] Given the importance of the right at issue, the Rule should be as unambiguous as possible. Accidental forfeiture of the right to a jury trial is an irreparable result with a straightforward solution. The proposed amendments offer that solution.

The proposed amendments to Rule 81 protect the right to jury trial by: (1) eliminating exemptions based on highly variable state court practice rules; and (2) standardizing filing deadlines for jury demands after removal where no demand was filed prior to removal. The

[1] Request for Comment, Preliminary Draft, Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence, available at: https://www.regulations.gov/document/USC-RULES-CV-2025-0004-0001.

[2] ADVISORY COMMITTEE ON CIVIL RULES OCTOBER 2024 AGENDA BOOK (2024), https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/advisory-committee-appellate-rules-october-2024, at 99-100.

proposed changes add clarity where the Rule's existing text muddies the water.[3] In some cases, the existing Rule excuses jury demands entirely.[4] In others, it requires them to be filed well before the state court rules would require.[5]

1. The Proposed Amendments Eliminate Textual Ambiguity and Make Clear that Rule 38 Applies for Purposes of Filing a Jury Demand in Cases Removed to Federal Court

The proposed changes make clear that when no jury demand has been made prior to removal, Rule 38 applies. As such, a jury demand is required regardless of the relevant state court's rules. This change eliminates the ambiguity created by the restyling and creates a bright line rule for attorneys who may be unfamiliar with the intricacies of federal court practice.

Attorney Mark Wray first raised this issue with the Committee in January 2015 after the federal district court judge in his case, *Gonzalez v. Shotgun Nevada Investments, LLC*,[6] granted defendants' Motion to Strike Jury Demand for untimeliness, thereby denying his client the right to a jury trial.[7] Wray interpreted the restyling changes of 2007 to change the meaning of the Rule by adding an exception to the requirement that a jury demand be filed within 14 days in cases removed from state to federal court prior to the state court deadline to file a jury demand. The Court disagreed, instead adhering to the pre-restyling interpretation of the Rule, a conclusion Wray contends is at odds with the Rule's text. Some courts have expressly rejected the view of the judge in Wray's case. In *Kay Beer Distributing*, the district court noted that the current language is "ambiguous," and found merit with Kay's contention that the restyling changed the Rule's meaning and cited another district court opinion calling the Rule "poorly crafted."[8]

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[3] "The rule is arguably ambiguous with regard to states in which a jury-trial demand is required, but the deadline for such a demand had not yet passed at the time of removal. The rule appears to have been designed to excuse jury-trial demands after removal when the state from which the case was removed would *never* have required such a demand. This motivation for the rule was clearer under the rule prior to restyling.". *See* Minutes of the Civil Rules Advisory Comm. (April, 9, 2024) at 94, ADVISORY COMMITTEE ON CIVIL RULES OCTOBER 2024 AGENDA BOOK (2024), https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/advisory-committee-appellate-rules-october-2024.

[4] Eight states (AZ, GA, MN, MS, MO, NE, OK, and OR) do not require jury demands at all. Under the current Rule, parties in those states are excused from filing a jury demand after removal. *See* Memorandum from Rules Law Clerk Zachary Hawari to Professor Marcus, dated February 28, 2024, at 107-119 *in* ADVISORY COMMITTEE ON CIVIL RULES OCTOBER 2024 AGENDA BOOK (2024), https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/advisory-committee-appellate-rules-october-2024.

[5] Thirty states and the District of Columbia operate similarly to the federal rule, requiring a jury demand within a certain number of days after service of the last pleading directed to a jury-triable issue. However, among these thirty states, there is little agreement on the precise number of days. Seventeen states have a 10-day deadline; eleven states have 14- or 15- day deadlines; Pennsylvania has a 20-day deadline; and Alabama has a 30-day deadline. Nine additional states require a jury demand but base the timing on a different event. *Id.*

[6] *Gonzalez v. Shotgun Nev. Inv., LLC*, No. 2:13-cv-00931-RCJ-VPC, 2016 WL 4548675 (D. Nev. Oct. 23, 2014).

[7] *See* Email from Attorney Mark Wray to the Advisory Committee on Rules Practice and Procedure (Jan. 17, 2015) (Re: Change to Rule 81).

[8] *Kay Beer Distrib. v. Energy Brands, Inc.*, No. 07-C-1068 (E.D. Wis. June 12, 2009) (citing *Cross v. Monumental Life Ins. Co.*, 2008 U.S. Dist. LEXIS 109235, 2008 WL 2705134, *1 (D. Ariz. July 8, 2008)). *See also* Memorandum from Rules Law Clerk Zachary Hawari to Professor Marcus, dated June 26, 2024, at 123 *in*

The proposed amendments eliminate the need for courts to engage in this debate, thereby promoting judicial efficiency and protecting the fundamental right to a jury trial.

2. The Proposed Amendments Set a Clear 14-Day Deadline for Filing a Jury Demand After Removal

The proposed amendments also clarify when a demand for a jury trial must be made, if no demand was made prior to removal. Rule 38 requires that a party demand a jury trial on any issue triable of right by a jury no later than 14 days after the last pleading is served.[9] The proposed changes incorporate this timeline in Rule 81(c)(3)(A). If all pleadings have been served at the time of removal, a jury demand must be filed by the removing party within 14 days of filing the notice of removal, and by any other party within 14 days of being served with a notice of removal.

Conclusion

When individuals are harmed by the conduct of others, their right to a jury trial is among the most critical rights at their disposal to seek justice. To protect that right, their attorneys should not have to wade through the uncertainty created by the Rule's current language. The amendments alleviate that uncertainty by establishing a bright line rule that ensures the constitutional right to a jury trial is protected. For the foregoing reasons, the undersigned TLAs recommend that the Committee approve the proposed amendments to Rule 81.

Please direct any questions regarding the above to Sara Schuett, Executive Director of the Missouri Association of Trial Attorneys at sara@matanet.org.

Sincerely,

Sara Schuett

Sara Schuett
Executive Director of the Missouri Association of Trial Attorneys

Clint Mountain
President
Alabama Association for Justice

Jessica Virden Mallett
President

Arkansas Trial Lawyers Association
Douglas S. Saeltzer
President
Consumer Attorneys of California

Jason Wesoky

ADVISORY COMMITTEE ON CIVIL RULES OCTOBER 2024 AGENDA BOOK (2024), https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/advisory-committee-appellate-rules-october-2024.

[9] Fed. R. Civ. P. 38(b).

President
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Comment from Pennsylvania Association of Licensed Investigators

Posted by the **United States Courts** on Feb 12, 2026

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Attachments 1

PALI Board Submission on Proposed Amendments to FRCP Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0233/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0233

Tracking Number
mli-k93b-t75l

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Pennsylvania Association of Licensed Investigators
Date: February 9, 2026

To: Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of the Pennsylvania Association of Licensed Investigators (PALI) board to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server’s role in the justice system**, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, the PALI board respectfully urges the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rule making, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

We respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Leah Hopewell
Second Vice President / PALI
717-348-3025
Leah@toptieris.org

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Comment from Top Tier Investigative Solutions, LLC.

Posted by the **United States Courts** on Feb 12, 2026

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Comment

Thank you for the opportunity to present our commentary on the proposed changes to Federal Procedure.
See attached file(s)
Respectfully submitted,
Top Tier Investigative Solutions, LLC. Harrisburg, PA. 17110

Attachments 1

DLS Public Comment

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0234/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0234

Tracking Number
mli-qdw9-k3f7

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Michael A. Dipalo and Leah M. Hopewell, Top Tier Investigative Solutions, LLC.
Date: *February 11, 2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

We appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of **Top Tier Investigative Solutions, LLC.** to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons,we respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

We respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Michael A. Dipalo & Leah M. Hopewell
Owners
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Comment from Snapp-Holloway, Nicole

Posted by the **United States Courts** on Feb 12, 2026

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Attachments 1

Rules 41 and 45 Amendment Comments

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0235/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0235

Tracking Number
mli-oybt-9iou

Comment Details | **Submitter Info**

Received Date

Stiletto Legal Group
15401 N. May Ave., Suite 1000
Edmond, OK 73013
405.380.9887

February 12, 2026

TO: Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: Public Comment on Proposed Amendments to FRCP 41(a), 45(b), and 45(c)

Dear Members of the Standing Committee:

Today, I write in support of the proposed amendments to Rules 41(a), 45(b), and 45(c). I represent plaintiffs in both state and federal court and have done so for many years. These amendments address long standing issues and would alleviate obstacles and make our practice more efficient without sacrificing fairness.

Rule 41(a)

The clarification that a plaintiff may voluntarily dismiss "one or more" claims is long overdue.

Modern cases are not single-claim lawsuits. Plaintiffs frequently plead alternative theories at the outset because critical information sits in the defendant's files. As discovery develops, some claims narrow or become unnecessary. Under the current rule, some courts require procedural workarounds, commonly using Rule 15 amendments or motion practice, simply to discard a claim no longer being pursued. That wastes time and money for everyone involved.

The amendment aligns the rule with modern litigation practices and would allow parties to streamline their claims without procedural gymnastics.

A voluntary dismissal should require signatures from *only* those parties who have appeared *and* remain in the action sign a stipulation. There is no practical purpose for forcing litigants to delay resolution of pending claims by seeking signatures from parties no longer in the case. This change promotes efficiency without prejudicing defendants.

Rule 45(b)

The proposed service revisions reflect practical reality.

The current ambiguity around "delivering" a subpoena has generated unnecessary disputes. In certain cases, secured buildings, or gated communities, make personal hand-delivery very difficult and costly. Modernizing the rule provides all parties reasonable alternatives if repeated attempts at physical service are unsuccessful.

Involving a commercial carrier, or other court-approved alternative means, provides the reliability that litigation deserves, while removing obstacles that were generally non-existent in years past. Leaving the subpoena at a dwelling with a suitable resident, with confirmation of actual receipt, provides flexibility while maintaining notice protections.

Additionally, service by commercial carrier with confirmation of receipt is often more reliable and better documented than disputed in-person attempts. It reduces cost limits gamesmanship by individuals attempting to evade service.

The addition of a 14-day notice period further enhances the protections this rule deserves and would protect nonparties and reduce emergency filings.

The Federal Rules are meant to facilitate adjudication, not preserve a particular service industry model. The proposed amendment strikes the right balance between reliability and practicality.

Rule 45(c)

The amendment to 45(c) also addresses a *modernization* issue that has only recently come into being.

The 2013 revisions to Rule 45 were intended to permit nationwide service of subpoenas issued by the court where the action is pending. But the decision in *In re Kirkland* undermined that framework by limiting courts' authority to compel remote testimony based on geography.

Remote testimony is no longer a novelty; it is a constant and common method of preserving testimony. It reduces cost, limits unnecessary travel, and often makes participation possible for witnesses who would not, or could not, otherwise appear. Litigation is rarely "local," and key witnesses frequently reside far from the forum. Requiring in-person attendance when remote testimony would suffice increases expense and can effectively exclude relevant evidence, affecting all parties.

The proposed amendment sensibly clarifies that wherever the witness appears is the *place of attendance*. It preserves the rule's distance protections while restoring the intended scope of subpoena authority.

Most importantly, it does not lower the standard for allowing remote testimony. It it intended to ensure that when remote testimony is authorized, courts have the authority to compel it within the existing framework.

Conclusion

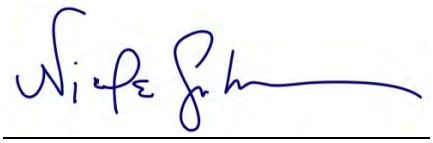
Each of these amendments addresses a recurring procedural inefficiency:

- Rule 41(a) allows targeted dismissal of claims.
- Rule 45(b) resolves unnecessary disputes over service.
- Rule 45(c) restores intended nationwide subpoena authority for remote testimony.

The proposed amendments are practical and will have a positive effect on how litigation works in the real world.

I respectfully urge adoption of the proposed amendments.

Sincerely,



Nicole Snapp-Holloway

Stiletto Legal Group 15401 N. May Ave., Suite 1000 Edmond, OK 73013 405.380.9887

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Comment from Private detective company owner and board member for PALI, the PA Licensed Investigator's organization.

Posted by the **United States Courts** on Feb 12, 2026

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Comment

See attached pdf letter

Attachments 1

Public comment opposing proposed amendments to Federal Rule of Civil Procedure 2 11 2026

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Comment ID
USC-RULES-CV-2025-0004-0236

Tracking Number
mli-rlk5-2xtl

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *George Galovich, President of Delphi Services, Inc.*
Date: *February 11, 2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

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Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
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- shared or unsecured mailrooms, and
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Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
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1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
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VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
George Galovich
President
Delphi Services, Inc.
836 Crucible Street
Pittsburgh, PA 15220
(412) 224-1066

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PUBLIC SUBMISSION

Comment from CSI Corporate Security and Investigations, LLC

Posted by the **United States Courts** on Feb 12, 2026

Comment

See attached file

Attachments 1

Public Comment Submission on Proposed Amendments to FRCP Rule 45 - CSI

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0237/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0237

Tracking Number
mlj-kmu2-zteq

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *Nicole Stanec, Director - CSI Corporate Security and Investigations, LLC*
Date: *12/12/2026*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of ***CSI Corporate Security and Investigations, LLC*** to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server’s role in the justice system**, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Nicole Stanec, **Director**
CSI Corporate Security and Investigations, LLC

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Comment from Green, Kevin

Posted by the **United States Courts** on Feb 12, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Comment in Support of Proposed Changes to Rules 41, 45(b), and 45(c).

Attachments 1

2026-02-12 Proposed Rule Comments

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Comment ID
USC-RULES-CV-2025-0004-0238

Tracking Number
mlj-od82-56xd

Comment Details | **Submitter Info**

Received Date

GOLDENBERG HELLER
& ANTOGNOLI, P.C.
ATTORNEYS AT LAW
2227 South State Route 157, Edwardsville, Illinois 62025 | 618.656.5150 | FAX: 618.656.6230

February 12, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Comment in Support of Proposed Changes to Rules 41, 45(b), and 45(c)

Dear Committee Members,

I have been litigating in various federal courts for over fifteen years and currently serve as a member of the advisory Local Rules Committee for the United States District Court, Southern District of Illinois. I submit this comment in support of the proposed changes to Federal Rules of Civil Procedure 41, 45(b), and 45(c). Each of the proposed changes provides needed clarity and promotes both efficiency and judicial economy.

Rule 41

Much of my practice occurs in the Seventh Circuit, which has construed Rule 41 as permitting the voluntary dismissal only of entire "actions"—not individual claims. As a result, even where parties stipulate to dismissal of fewer than all claims, they must seek a court order to effectuate that dismissal. While a court will almost certainly enter such an order, court dockets are heavily backlogged, and waiting for what amounts to a ministerial act can cause unnecessary delay.

Other times, I have seen plaintiffs who may be unaware of the distinction move for voluntary dismissal of some claims under Rule 41. When that occurs, the court typically issues docket entries advising of the procedural error, followed by the plaintiff's Rule 15 motion for leave to amend the complaint to remove the claims, followed by a court order granting the amendment. What should be a straightforward exercise in party autonomy instead becomes a multi-step procedural detour that burdens both the litigants and the court. The proposed amendment avoids this inefficiency, brings uniformity to the circuits, and aligns the rule with the practical realities of modern litigation. I support its adoption.

Rule 45

The proposed changes to Rule 45 also provide needed clarity, uniformity, and efficiencies without hindering the rule's purposes.

The evasion of service is a real and costly problem in litigation, and the proposed amendments to Rule 45(b) are a welcome improvement. The changes will not eliminate the need for personal service, which will likely remain the best way for efficient service. But allowing for additional verifiable methods of service—along with providing the court flexibility to authorize

alternative methods upon a showing of good cause—addresses this issue in a practical, measured way and will be particularly helpful in difficult service scenarios.

Further, the clarity provided by defining the proper time for service helps avoid needless disputes. And the additional time afforded for delivery of the witness fee serves a practical purpose beyond administrative convenience: it allows the attorney to meet and confer with the witness after service but before testimony, which should promote a more accurate and agreed-upon mileage calculation. This is a small but meaningful refinement.

Finally, the proposed change to Rule 45(c) aligns with Rule 45's broader purpose of providing nationwide subpoena power and brings the rule into the modern era by reflecting the reality that the COVID-19 pandemic "changed expectations about how legal proceedings can (and perhaps should) be conducted." *In re Kirkland*, 75 F.4th 1030, 1046 (9th Cir. 2023). While the court retains discretion to permit live remote testimony where appropriate, the amendment gives litigators more flexibility to make determinations about witness presentation based on relevant strategic and practical factors—rather than being constrained solely by a witness's proximity to the courthouse in our interconnected world.

Very truly yours,



Kevin P. Green

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Comment from Niskar, Joey

Posted by the **United States Courts** on Feb 12, 2026

Comment

I have been practicing law for almost 30 years. The vast majority of my cases are litigated in federal courts. These proposed changes to Rule 45 are LONG OVERDUE. The proposed changes protect the Due Process rights of witnesses by ensuring reasonable notice through reliable methods of service, and do so in a manner which will significantly reduce the costs of litigation. The proposed changes therefore also advance the purposes and goals of Rule 1, which implores the court, attorneys and parties "to secure the just, speedy, and inexpensive determination of every action and proceeding." These changes should have been made years ago.

Comment ID
USC-RULES-CV-2025-0004-0239

Tracking Number
mlj-ofd9-3ga4

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Feb 12, 2026

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Comment from Sletvold, Ashlie

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

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Attachments 1

2026.02.12 Sletvold Public Comment on Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0240/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0240

Tracking Number
mlj-qrei-dqdo

Comment Details | **Submitter Info**

Received Date

PEIFFER WOLF
CARR KANE CONWAY & WISE

Ashlie Case Sletvold | Partner
6370 SOM Center Rd., Suite 108, Cleveland, OH 44139
216-260-0808 216-258-0161 asletvold@peifferwolf.com

February 12, 2026

Via Regulations.gov Comment Portal

Re: Public comment in support of the proposed amendments to Rule 45 (USC-RULES-CV-2025-0004)

To the Advisory Committee on Civil Rules:

I am an attorney in Cleveland, Ohio. For over 20 years, I have litigated in State and federal courts nationwide. My practice centers on multi-district litigation of products-liability cases in the federal courts. I frequently issue and serve subpoenas across the county.

I write to express my strong support for the proposed amendments to Federal Rule of Civil Procedure 45. The amendments represent a thoughtful and necessary refinement of the subpoena rule, advancing the core goals of the Federal Rules: securing the just, speedy, and inexpensive determination of every action and proceeding.

The proposed amendment to Rule 45(b) will serve these interests by providing common-sense alternatives to the existing subpoena-service requirements. This is particularly true for subpoena targets endeavoring to evade service, which frequently generates unnecessary costs for litigants and delays in the orderly progress of civil litigation.

The proposed amendment to Rule 45(c) will have the effect of restoring nationwide subpoena authority. It serves justice and supports the pursuit of truth by facilitating remote appearance for live testimony.

These changes will improve efficiency, reduce motion practice, and eliminate unnecessary costs.

For these reasons, I respectfully urge the Committee to adopt the proposed amendment. The revisions meaningfully improve the administration of justice and enhance the overall fairness and efficiency of federal civil litigation.

Thank you for your continued work to improve the Federal Rules of Civil Procedure and for considering this comment.

Respectfully submitted,



Ashlie Case Sletvold

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Comment from John Adams And Associates

Posted by the **United States Courts** on Feb 12, 2026

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Attachments 1

Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0241/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0241

Tracking Number
mlj-slro-ij14

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: John Adams/John Adams and Associates
Date: 2/12/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of Process Servers to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline,**
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

John Adams
Owner of John Adams and Associates
8 Redwing Drive
Lugoff SC 29078
(803)600-7722

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Comment from Baxter, Brandon

Posted by the **United States Courts** on Feb 12, 2026

Comment

Thank you for taking up this issue. As an attorney who regularly practices in Federal court, I support the proposed changes to Rule 45(b) and (c). The change to 45(b) is an appropriate measure that prevents people from evading the justice system. It will save money for all parties. 45(c) makes sense in a world where remote meetings have become standard practice. I ask that the proposed changes to Rule 45(b) and (c) be adopted.

Comment ID
USC-RULES-CV-2025-0004-0242

Tracking Number
mlj-tzqd-bwx4

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Comment from Snyder, Leah

Posted by the **United States Courts** on Feb 12, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

Comment on ER 45 FNL - Copy

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0243/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0243

Tracking Number
mli-f3x2-a6pc

Comment Details | **Submitter Info**

Received Date

EMBER LAW PLLC
1700 Seventh Ave., Suite 2100
Seattle, WA 98101

February 11, 2026

COMMENTS ON THE PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

To Whom it May Concern:

My name is Leah Snyder and I am the founder of Ember Law, a boutique law firm specializing in representing individuals and businesses who have disputes with their insurance company regarding denial of coverage, refusal to pay benefits, or failure to defend. I write to provide comment and support the adoption of the changes to the subpoena rule contained Civil Rule 45. It is beneficial to all litigants that a convenient, inexpensive, and reliable method of providing notice be adopted. Additional means of service are necessary because a few individuals purposely evade service delaying appearances for depositions and trial.

The provided in the proposed amendments provide much needed optionality. The proposed options for commercial notice or leaving a copy at the dwelling with a person of suitable age and discretion are already familiar to parties under Rule 4. The rule also provides for service "by other means authorized by the court for good cause" for truly hard to locate persons. While most parties will continue to use a process server for routine business, the additional options ensure that people receive appropriate notice.

The purpose of personal service has been to ensure that people receive actual notice, and the proposed amendments ensure that those protections remain. The amendments would continue to protect people subject to subpoena while reducing cost, inconvenience, and delay for parties and courts. I support the adoption of the proposed amendments related to service.

Sincerely,

/s/ Leah Snyder
Leah S. Snyder

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Comment from SUPREME JUDICIAL SERVICES, INC.

Posted by the **United States Courts** on Feb 13, 2026

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Comment

Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

To the Advisory Committee on Civil Rules:
These comments look at the proposed changes to Federal Rule of Civil Procedure 45. The changes will have an effect on the court's enforcement and on due process. In my view the main issue is not convenience, it is reliability. Expanding service through carriers or indirect delivery methods takes away the proof certainty that the courts now have. The courts use that certainty to enforce subpoenas. In fact, this will likely add more strain to court resources.

I. Replacing the sworn proof, with the logistics records creates evidence problems
The current service practices use sworn affirmations or affidavits. The sworn affirmations or affidavits describe who was served, how the service was made, and what verification steps were taken. Courts trust the sworn affirmations or affidavits because they provide proof that is tied to a person who can be questioned if necessary. Commercial carrier systems provide package tracking, which usually shows only that a package reached the address, not that the intended recipient received it, whether the person who accepted the delivery had authorization, or if the identity of the individual who accepted the service was verified.
Replacing sworn proof, with shipping data takes away the evidentiary clarity courts currently rely on and creates factual disputes.

II. Due Process Concerns
Subpoenas bring legal consequences. The notice for a subpoena must be reliable; providing reliable notice is essential.
Any rule change that weakens proof of receipt puts the foundation of subpoena enforcement at risk. The proof of receipt is the key. The constitutional foundation of subpoena enforcement rests on the proof of receipt.

Give Feedback

III. Increased Litigation and Judicial Burden
Unclear delivery records lead to disputes. The courts should expect disputes with regard to delivery issues, identity verification or discovery delays which lead to case progression delays.
The changes do not simplify the process – they will unnecessarily complicate matters for the judicial system.

IV. Modern Delivery Environments Increase Risk
In apartments or offices today carrier deliveries often end up in the mailrooms, with concierges at the reception desks, or with unidentified third parties. The tracking records do not usually show if the mailrooms, the concierges, the reception desks or the unidentified third parties were authorized to take the carrier deliveries – more importantly, the tracking records do not usually show if the intended recipient ever received the documents.

V. Institutional Consequences
Expanding alternative delivery methods without strict verification standards will cause more harm than good. Increased motion practice, evidentiary hearings, and discovery are among the areas that will suffer the harshest impact. Placing greater strain on the judicial system is not a benefit, it is a detriment.

VI. Conclusion
Rule 45 works well because the courts need signed proof of delivery that is tied to responsible people who can appear in court if necessary. Commercial shipping records used in place of Rule 45 bring evidentiary uncertainty that can be avoided. For these reasons, the proposed amendments should be reconsidered or limited to situations involving explicit consent or prior court authorization.

Comment ID
USC-RULES-CV-2025-0004-0244

Tracking Number
mlj-xmq2-bv7x

Comment Details | **Submitter Info**

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PUBLIC SUBMISSION

Comment from De La Espriella, Roy

Posted by the **United States Courts** on Feb 13, 2026

Comment

To Whom It May Concern,

I write as a concerned citizen to respectfully oppose the proposed amendment to the Federal Rules of Civil Procedure that would permit service of subpoenas by certified mail.

A subpoena is a powerful legal command backed by the authority of the court. Because it can compel testimony or production of documents under penalty of law, the method of service must ensure reliability, accountability, and fairness.

Currently, in most states, subpoenas may be hand-delivered and may even be left with a co-resident of suitable age and discretion at the witness's residence. Importantly, however, this still requires in-person delivery. At the time of service, a process server can confirm whether the witness actually resides at the address, whether the address is current, and whether the individual accepting service has a legitimate connection to the residence. That human interaction provides an essential layer of verification.

Even under the current system, with hand delivery and personal interaction, individuals sometimes challenge or move to quash service. Disputes arise despite the fact that someone physically went to the location and confirmed occupancy at the time of service. If service were permitted by certified mail alone, without any in-person confirmation, it would become significantly easier to challenge service. A signature on a mail receipt does not confirm that the named witness received the subpoena, resides at the address, or even knew about the delivery. Mail can be signed by another person, misdelivered, forwarded, or sent to an outdated address.

People move frequently. Addresses change. Certified mail provides no independent verification that the recipient still resides at the listed location. Without in-person confirmation, there is no meaningful safeguard to ensure that the subpoena actually reaches the intended witness. This creates serious due process concerns and risks subjecting individuals to legal consequences without reliable notice.

Give Feedback

Rather than reducing disputes, this proposed change may increase motions to quash and satellite litigation over improper service. The current requirement of hand delivery, while not perfect, maintains an essential level of accountability and integrity in the service process.

For these reasons, I respectfully urge reconsideration of this proposed amendment and the preservation of personal, hand-delivered service as a required safeguard in federal subpoena practice.

Thank you for your consideration.

Sincerely,
Roy De La Espriella

Comment ID

USC-RULES-CV-2025-0004-0245

Tracking Number

mlk-12n0-cvfa

Comment Details | **Submitter Info**

Received Date

Feb 12, 2026

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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose these changes

Comment ID
USC-RULES-CV-2025-0004-0246

Tracking Number
mlk-627n-cncc

Comment Details | Submitter Info

Received Date
Feb 12, 2026

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PUBLIC SUBMISSION

Comment from Anonymous

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose this

Comment ID
USC-RULES-CV-2025-0004-0247

Tracking Number
mlk-8efc-e1ja

Comment Details | Submitter Info

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PUBLIC SUBMISSION

Comment from Perez, Alex

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose this.

Comment ID
USC-RULES-CV-2025-0004-0248

Tracking Number
mlk-8o0n-mg6a

Comment Details | Submitter Info

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Comment from Thompson , George

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose this.

Comment ID
USC-RULES-CV-2025-0004-0249

Tracking Number
mlk-9byj-ngdl

Comment Details | Submitter Info

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Comment from Anonymous

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose

Comment ID
USC-RULES-CV-2025-0004-0250

Tracking Number
mlk-9raf-ztcg

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Comment from L.R.I. Process

Posted by the **United States Courts** on Feb 13, 2026

Comment

I oppose these changes. Witnesses and Evidence play a substantial role in legal proceedings. The reliability of who's actually receiving the documents is imperative to the enforceability of the subpoenas.

Comment ID

USC-RULES-CV-2025-0004-0251

Tracking Number

mlk-9sh2-zzj7

Comment Details | **Submitter Info**

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PUBLIC SUBMISSION

Comment from Raveendran Law LLC

Posted by the **United States Courts** on Feb 13, 2026

Comment

See attached.

Attachments 1

2026.2.13 Comment on 41(a) (Final)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0252/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0252

Tracking Number
mll-2ecn-kruu

Comment Details | **Submitter Info**

Received Date

Raveendran Law LLC
Civil Rights Warrier

Bhavani Raveendran | bhavani@brwarrierlaw.com
4849 N. Milwaukee Ave, #700 Chicago IL 60630

February 13, 2026

Re: Comment Period on FRCP 41(a)

To Whom it May Concern:

Based on over a decade of experience in federal litigation, Federal Rule of Civil Procedure 41(a) should be amended to expressly permit the voluntary dismissal of an entire action ***or*** discrete claims within an action. Clarifying this authority would promote efficiency and access to justice, particularly in civil rights litigation.

Although some courts have required parties to rely on Rule 15 to amend pleadings when dismissing individual claims, others have permitted the use of Rule 41(a) for partial dismissals. As a practitioner, I have worked in Circuits permitting use of Rule 41(a) to dismiss individual claims as well as those requiring an amendment. The confusion often leads to additional work by the Court to educate parties on whether the mechanism they selected is appropriate. Adding in flexibility to Rule 41(a) would enhance judicial economy by reducing unnecessary briefing, dispositive motions, and trial preparation on issues no longer in dispute. As currently constructed, Rule 41(a) does not address issues a common situation in motion practice, where parties may face a dispositive motion against a claim that they would dismiss, rather than dispute, if given the choice.

Civil rights cases frequently involve multiple claims arising from a common set of facts, including constitutional, statutory, and state-law causes of action pleaded in the alternative. As discovery progresses, plaintiffs often uncover new facts that materially affect the viability of claims, as they procure information that was not available through open records requests or investigation. In such circumstances, litigants should have a clear and efficient procedural mechanism to dismiss weaker or unnecessary claims without risking procedural complications or incurring unnecessary motion practice.

Such flexibility would also be positive for defendants in civil rights cases. For purposes of illustration, if a plaintiff brings a case against police officers alleging an excessive use of force through the use of a Taser, the plaintiff may bring claims against each officer depicted holding a taser based on body worn footage. However, Taser data exchanged during discovery may clarify which officers' tasers were actually engaged. A flexible rule would allow the plaintiff to release the defendant officers who did not engage in the force. It would provide an easy mechanism for Defendants to be efficiently removed, without expending more resources.

Raveendran Law LLC
Civil Rights Warrier

Bhavani Raveendran | bhavani@brwarrierlaw.com
4849 N. Milwaukee Ave, #700 Chicago IL 60630

For these reasons, Rule 41(a) should authorize voluntary dismissal of all or part of an action, reflecting the procedural reality of complex civil rights litigation.

Sincerely,



Bhavani Raveendran
Attorney and Principal
Raveendran Law LLC

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Comment from Cooper, Charles

Posted by the **United States Courts** on Feb 13, 2026

Comment

I am an experienced litigator (40 years of practice, approximately 75 trials) who actively practices in federal court. I support the proposed changes to Rules 26, 41 and 45. They are sensible and promote efficiency. The proposed change to Rule 41(a) would clear up some confusion among the circuits, some of which currently require dismissal of all claims and will not permit dismissal of individual claims against some but not all defendants. The proposed change to Rule 45 helpfully aligns Rule 45 with Rule 4 in terms of methods of service and also clears up an issue the Ninth Circuit created about nationwide subpoena authority.
My thanks to the committee for these thoughtful revisions.

Comment ID
USC-RULES-CV-2025-0004-0253

Tracking Number
mll-37fx-g844

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Feb 13, 2026

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Comment from Grossberg, Ron

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s)

Attachments 1

DLS Public Comment

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Comment ID
USC-RULES-CV-2025-0004-0254

Tracking Number
mll-68rr-ztl9

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Committee to Support the Antitrust Laws

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

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Attachments 1

COSAL FRCP41a Comment FINAL

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0255/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0255

Tracking Number
mll-7t4g-42td

Comment Details | **Submitter Info**

Received Date

COSAL
COMMITTEE TO SUPPORT THE ANTITRUST LAWS

February 13, 2026

Submitted Electronically

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Re: Comments Regarding the Proposed Amendments to Rule 41 of the Federal Rules of Civil Procedure by the Committee to Support the Antitrust Laws (USC-RULES-CV-2025-0004)

Dear Committee on Rules of Practice and Procedure:

The Committee to Support the Antitrust Laws (COSAL) submits these comments to express its general support for the proposed amendments to Federal Rule of Civil Procedure 41(a). COSAL further proposes that the amendments to Rule 41(a) should explicitly permit dismissal of individual parties in multi-party actions.

1. COSAL Has an Interest in Ensuring the Efficient Administration of Complex Litigation Involving Multiple Claims and Parties.

COSAL is a nonprofit organization that was established in 1986 to promote and support the enactment, preservation, and enforcement of a strong body of antitrust laws in the United States. COSAL's members are law firms throughout the country that represent individuals and businesses that have been harmed by violations of the antitrust laws. COSAL monitors and comments on congressional and administrative activity concerning antitrust policy and plays a leading role in building support for the enforcement of the antitrust laws. COSAL's members routinely litigate cases involving multiple claims and parties, which are common in antitrust litigation. For example, price-fixing claims involve multiple defendants—often many. Additionally, indirect purchasers' antitrust claims often involve many causes of action because they are brought under state antitrust laws.

2. The Proposed Rule Will Help Parties to Narrow Issues Before Trial.

COSAL supports the changes that the Committee on Rules of Practice and Procedure ("Standing Committee") has proposed to Rule 41(a). The proposed amendments make clear that the rule can be used to voluntarily dismiss a claim or claims within an action. The amendments will make clear that the rule is explicitly not limited to the dismissal of entire actions and that a stipulation of dismissal does not require the agreement of former parties to the action. These amendments will codify an efficient dismissal process that is critical for complex antitrust litigation, which often involves numerous claims and numerous parties on both sides of the case. The ability of former parties to interfere in a dismissal of current parties or claims has the potential to delay the resolution of the litigation, at additional cost, without any countervailing benefits to the resolution of the litigation. And, at present, there is a circuit split regarding the application of Rule 41(a) to situations where a plaintiff seeks to dismiss less than the entire action.[1] The proposed amendment presents a meaningful step toward the resolution of this circuit split and will allow parties in complex cases to narrow the pending issues during pretrial proceedings. The parties' ability to narrow the scope of proceedings before trial means that any remaining pretrial proceedings, as well as the trial itself, can proceed faster and more efficiently with respect to the claims, defenses, and other issues that need to be decided.

3. The Addition of Language to Clarify That Individual Parties Can Also Be Dismissed Through Fed. R. Civ. P. 41(a) Would Further Improve the Rule.

While COSAL supports the Standing Committee's proposed changes to Rule 41(a), COSAL would also urge the Standing Committee to include language that makes it clear that Rule 41(a) can be used to dismiss claims against a party (or parties) while other parties remain in the litigation. The proposed amendment eliminates any question that a claim may be dismissed without dismissing the entire action. However, without the specific inclusion of language covering the dismissal of a party, there remains a risk that courts will reach different outcomes on this question, as they have

[1] *Compare Taylor v. Brown*, 787 F.3d 851, 857 (7th Cir. 2015) ("Rule 41(a) should be limited to dismissal of an entire action."), *with Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997) ("The plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice.").

under the prior version of the rule.[2] In fact, some courts have already spoken of the dismissal of a claim as distinct from the dismissal of a party in the context of Rule 41(a).[3] For the avoidance of any remaining confusion regarding the correct application of Rule 41, COSAL recommends the inclusion of language to clarify that Rule 41 may be used to dismiss an action, a claim or claims, or a party or parties. For instance, Rule 41(a)(1)(A) could state that "a plaintiff may dismiss its action or one or more of its claims **against one or more parties** without a court order."

Sincerely,

Joseph C. Bourne

Joseph C. Bourne
Lockridge Grindal Nauen PLLP
Chair,
COSAL Federal
Rules Committee

Sincerely,

Meegan Hollywood

Meegan Hollywood
Shinder Cantor Lerner LLP
Vice Chair,
COSAL Federal
Rules Committee

Sincerely,

Candice J. Enders

Candice J. Enders
Berger Montague
Secretary,
COSAL Federal
Rules Committee

[2] *See Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997) ("The plaintiff may dismiss some or all of the defendants ... through a Rule 41(a)(1) notice."); *Interfocus Inc. v. Hibobi Tech. Ltd.*, No. 22-CV-2259, 2023 WL 4137886, at *2 (N.D. Ill. June 7, 2023) ("[T]he Seventh Circuit does not view Rule 41(a) as a set of shears for trimming a case, and leaving the rest.").

[3] *See Interfocus Inc. v. Hibobi Tech. Ltd.*, No. 22-CV-2259, 2023 WL 4137886, at *1 (N.D. Ill. June 7, 2023) ("Rule 41(a) covers the dismissal of 'an action,' meaning a case as a whole, not an individual claim or an individual party.").

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Comment from Court Support Inc.

Posted by the **United States Courts** on Feb 17, 2026

Comment

This would be detrimental to all process servers and agencies. This would effect many peoples livelihoods and many businesses could lose lots of money if this passes.

Comment ID
USC-RULES-CV-2025-0004-0256

Tracking Number
mll-80lb-zvdy

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Comment from White, Tammy

Posted by the **United States Courts** on Feb 17, 2026

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/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

FRCP RULE 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0257/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0257

Tracking Number
mll-8zjq-a6yk

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Tammy L. White/Serving Justice, LLC
Date: 02/13/2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Tammy L. White

Serving Justice, LLC

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Comment from American Association for Justice

Posted by the **United States Courts** on Feb 17, 2026

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Comment

Comments from the American Association for Justice (AAJ) on 41(a), 45(b) and 45(c).

Attachments 3

AAJ Comment on Rule 41(a) Voluntary Dismissal Final

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0258/attachment_1.pdf)

AAJ Comment on Rule 45(b) Subpoenas Final (w Attachment)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0258/attachment_2.pdf)

AAJ Comment on 45(c) Remote Testimony Final

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0258/attachment_3.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0258

Tracking Number

mll-a3sf-h1lc

Comment Details | **Submitter Info**

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Feb 13, 2026

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AMERICAN ASSOCIATION FOR JUSTICE®
The Association for Trial Lawyers

February 13, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

RulesCommittee_Secretary@ao.uscourts.gov

Re: Proposed Amendments to Rule 41(a) Dismissal of Actions or Claims

Dear Members of the Committee on Rules of Practice and Procedure:

The American Association for Justice ("AAJ") submits this comment regarding the proposed amendments to Rule 41(a) Dismissal of Actions or Claims by the Advisory Committee on Civil Rules ("Advisory Committee"). AAJ is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world's largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury and wrongful death actions, employment rights cases, consumer cases, class actions, and other civil actions. AAJ supports the proposed amendments and believes that they will promote efficiency and predictability for courts and parties.

I. The Proposed Amendments Will Ensure an Operational Rule

It is not surprising that the text of Rule 41(a), which has provided for the "dismissal of actions" since its inception in 1937, needs some updating. While there is limited data available on voluntary dismissals specifically,[1] the rise of complex litigation has dramatically changed the litigation landscape and cases involving multiple claims are much more common today than they were 20 years ago.[2] Plaintiffs are continuing to seek judicial protections and remedies from

[1] Michael E. Solimine & Amy E. Lippert, 36 U. MICH. J. L. REFORM 367, 382 (2003) ("[T]here appears to be little hard data that can be brought to bear on the use of Rule 41 (a). Official statistics kept for the federal court keep track of dismissals in a generic fashion, and thus do not differentiate between or among dismissals founded on Rules 12 or 41.").

[2] *The Need for Additional Judgeships: Litigants Suffer When Cases Linger*, U.S. CTS. (Nov. 18, 2024) ("Over the past 20 years, the number of civil cases pending more than three years rose 346 percent, from 18,280 on March 31, 2004 to 81,617 on March 31, 2024.").

malfunctioning and dangerous government entities at all levels, including police departments, prisons, and institutional care facilities.[3]

One practice area that has changed considerably is civil rights law. In the past 15 years, the types of civil rights cases have evolved with the rise of police misconduct litigation, which frequently involves claims against multiple defendants.[4] A typical police or prison misconduct case may involve initial harms inflicted by officers or correctional guards that are followed or compounded by additional harms, such as emergency responders' or health professionals' failure to provide prompt and effective medical care.[5] Due to short statutes of limitations, these cases often must be filed before official investigations are completed and evidence is made fully available for review.[6] The proposed amendments would allow for streamlining of claims, ensuring that cases can move forward expeditiously, while providing a mechanism for dismissing claims that are no longer viable after more information becomes available or have been settled.

II. The Proposed Amendments Will Ensure Court Efficiency and Predictability

In February 2022, then-Rules Law Clerk Burton Dewitt detailed the long-standing circuit split involving three-fourths of the circuits, with the remaining circuits developing intra-circuit splits in a research memorandum.[7] The current circuit split is unhelpful to both parties and the courts. For practitioners who represent plaintiffs in numerous circuits, the unpredictability is

---

[3] David Marcus, *Groups and Rights in Institutional Reform Litigation*, 97 NOTRE DAME L. REV. 619, 652 (2022).

[4] The rise of this litigation generally involves multiple claims over time against the same officers, whose claims are paid by the police department that employs them. *See, e.g.*, Keith L. Alexander, Steven Rich, & Hannah Thacker, *The Hidden Billion Dollar Cost of Repeated Police Misconduct*, WASH POST (Mar. 9, 2022); Aurélie Ouss & John Rappaport, *Is Police Behavior Getting Worse? Data Selection and the Measurement of Policing Harms*, 49 J. LEGAL STUD. 153, 153 (Jan. 1, 2020) (finding that "societal responses to policing harms are intensifying").

[5] In 2023, Memphis police officers pulled over Tyre Nichols for a traffic stop, beat him, peppered sprayed and kicked him in the head. EMS on the scene did nothing to treat his injuries and delayed transporting him to the hospital, where Nichols later died. A civil trial date is set for July 2026. Katie Riordan, *Jury Finds 3 Former Memphis Police Officers Not Guilty in Death of Tyre Nichols*, NPR (May 7, 2025). In Colorado, Elijah McClain died several days after being stopped by police for "looking suspicious" while walking home from a convenience store. Although he did not resist arrest, police put the 23-year-old McClain into a chokehold and he lost consciousness. Instead of checking vitals, paramedics at the scene injected McClain with ketamine, a powerful sedative now banned in Colorado. The amount of ketamine was an overdose based on McClain's bodyweight and he went into cardiac arrest, later dying from his injuries. A civil rights lawsuits filed by the family against law enforcement was settled for $15 million and at least one officer was held criminally responsible. Lucy Thompkins, *Here's What You Need to Know About Elijah McClain's Death*, N.Y. TIMES (Oct 23, 2023); Faith Miller, *Aurora Agrees to Pay $15M in Settlement with Elijah McClain's Parents*, COLO. NEWS WIRE (Nov. 19, 2021).

[6] The National Police Accountability Project (NPAP) provides information to the public on the different types of investigations and why they take time to complete. In states with law enforcement bill of rights laws (LEOBR), "[c]ivil lawsuits are often the only form of recourse available to victims of police abuse, especially in states with LEOBR laws where officers are particularly insulated from employment consequences." *See* NAT'L POLICE ACCOUNTABILITY PROJECT, LAW ENFORCEMENT BILL OF RIGHTS STATUTES: HOW STATE LAW LIMITATIONS CONTRIBUTE TO POLICE HARM AND COMMUNITY DISTRUST (June 2022).

[7] *See* Memorandum from Burton S. DeWitt, Rules Law Clerk, to Professors Ed Cooper & Rick Marcus, Civil Rules Reporters (Feb. 28, 2022), *in* Advisory Committee to Civil Rules Agenda Book 218 (Oct. 2022).

unnecessary and can result in the inability to efficiently streamline litigation, which is especially important given the frequent long waits for jury trials in federal court.[8]

The proposed amendment provides needed efficiency for managing claims that inures to the benefit of both courts and parties. As litigation has become more complex, increasingly involving multiple claims and parties, the task of sorting responsibility is even more complicated. Voluntary dismissal—whether due to the narrowing of factual or legal issues after discovery[9] or because of settlement with a party in the case—should be encouraged to ensure judicial efficiency. It will also help with the management of any issues that result in an immediate appeal, such as a motion for summary judgment, by limiting the issues for appeal.

III. AAJ Supports the Proposed Time for Voluntary Dismissal

Unlike other rules, little scholarship has been published regarding Rule 41, but its origins indicate that voluntary dismissal by a plaintiff was a matter of historical practice.[10] Current Rule 41(a) provides several voluntary dismissal options. AAJ supports both options for a plaintiff to dismiss provided in the proposed amendment to 41(a)(1)(A)(i)—either before the opposing party serves either an answer or a motion for summary judgment. However, AAJ opposes the suggestion to expand dismissal options to include a motion filed under Rule 12(b), (e), or (f). It seems reasonable to provide time for the defendant to answer the allegation raised in the complaint before the plaintiff considers whether to proceed as initially planned or to take some other action, which could include voluntary dismissal under Rule 41(a) or filing an amended complaint under Rule 15.[11] For this reason, AAJ supports the Rule 41(a)(1)(A)(i) as drafted.

In section (a)(1)(A)(ii), AAJ supports the proposed clarifying text to provide that a stipulation be signed by the parties who have appeared *and remain in the action* with the small

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[8] There has been a "century-long decline in the portion of cases terminated by trial" and a more than "twenty-five-year decline in the absolute number of civil trials." Jeffrey Q. Smith & Grant R. MacQueen, *Going, Going, But Not Quite Gone: Trials Continue to Decline in Federal and State Courts. Does it Matter?*, 101(4) JUDICATURE 26 (2017).

[9] Both short statutes of limitations and delayed discovery of injury contribute to the need to file in order to preserve a plaintiff's claims. Some actions may include claims that have different statutes of limitations, such as a shortened statute for a civil rights claim or *Bivens* action, a slightly longer one for medical malpractice claims, a longer one for claims involving minors, or another tolling mechanism.

[10] Solimine & Lippert, *supra* note 1, at 386 ("[P]erhaps it was the perception that common law procedure disadvantaged plaintiffs more often than defendants, coupled with the notion that plaintiffs were the masters of their own lawsuits, that supported the existence of a voluntary dismissal option.").

[11] The case of Tony Timpa, who died at the hands of Dallas police, illustrates this point well. Timpa suffered from anxiety and schizophrenia and called Dallas police for help. When the police arrived, they pressed 300 pounds of their body weight into the back and neck of the already hand-cuffed and zipped-tied Timpa for over 14 minutes. Timpa died from his injuries while bodycam footage recorded the officers laughing about it. Timpa's family brought a civil rights lawsuit against the Dallas police department, but the lawsuit could not and did not name the officers involved or describe with specificity what happened because Texas law allowed the City of Dallas to withhold bodycam footage and other evidence of how Timpa died. The city filed a motion to dismiss for failing to state a plausible claim. Before the motion to dismiss was decided, the plaintiff lawyer negotiated for the release of the bodycam footage and the release of other evidence documents and promptly filed an amended complaint. Joanna C. Schwartz, *An Even Better Way*, 112 CAL. L. REV. 1083, 1090 (2024).

amendment noted below. This clarification will ensure that parties who no longer have an ongoing interest in the litigation can continue to have a say in the outcome.

IV. A Minor Edit Recommended to Subsection (a)(1)(A)(ii)

The Advisory Committee is to be commended for drafting the proposed text to ensure that the rule preserves both the original rule text referring to the dismissal of an action, as well as the amended text providing for the dismissal of one or more claims. Because the rule is now officially "cleaned up," AAJ recommends one minor edit to the rule text and the accompanying committee note to ensure clarity: In Rule 41(a)(1)(A)(ii) strike "all" and replace it with "the" instead.[12]

The word "all" seems inconsistent with the added text referring to parties that "remain in the action" and in the clean-up of the rule, leaving no textual ambiguity is important. This is also conceptionally consistent with the purpose of the amendment: *that it be signed only by parties who have appeared and remain in the action*. With the edit, the rule text is:

> (ii) a stipulation of dismissal signed by ~~all~~ the parties who have appeared and remain in the action.

The first sentence of the second paragraph of the Committee Note would then be modified in the same manner:

> Second, Rule 41(a)(1)(A)(ii) is amended to clarify that a stipulation of dismissal need be signed only by ~~all~~ the parties who have appeared and remain in the action.

V. Conclusion

The proposed amendments to Rule 41(a) will streamline litigation involving multiple claims and helpfully resolve the existing circuit split. The amendment is particularly welcomed by civil rights practitioners, who often represent clients injured by two distinct sets of defendants. Please direct any questions regarding these comments to Susan Steinman, Senior Director of Policy & Senior Counsel, at susan.steinman@justice.org.

Respectfully submitted,



Bruce Plaxen
President
American Association for Justice

[12] The Advisory Committee could also consider striking "all" and not adding any additional text.

February 13, 2026

Carolyn A. Dubay,
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Re: Proposed Amendments to Rule 45(b) Subpoena Service

Dear Members of the Committee on Rules of Practice and Procedure:

The American Association for Justice ("AAJ") submits this comment regarding the proposed amendments to Rule 45(b) on Subpoena Service by the Advisory Committee on Civil Rules ("Advisory Committee"). AAJ is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world's largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury and wrongful death actions, employment rights cases, consumer cases, class actions, and other civil actions, and regularly require subpoenas to be served on named parties. AAJ supports the proposed amendments and, through extensive conversations with members as well as the helpful discussion of issues during the public hearing, recommends some additional edits to the proposed text and committee note.

I. Expanded Methods of Delivery Facilitate Subpoena Service

When AAJ members initially learned that the Advisory Committee was in the early stages of considering whether there were sufficient difficulties with the current Rule 45(b) that necessitated amendment, they shared no shortage of frustrating stories of their own challenges with the existing rule.[1] Many of the examples involving evasion of service shared a common theme: wealthy individuals residing in gated communities (or other places with similar physical barriers) that made hand-delivery of subpoenas either impossible or prohibitively expensive. Moreover, in an age where the uber-wealthy often privately employ armed security, it is just a matter of time

[1] Some of these stories were shared directly with Judge Godbey and the members of the Discovery Subcommittee during an informal discussion with members of AAJ in May 2023.

before a process server is injured or killed while during their job.[2]

The proposed amendments provide much-needed optionality that can be tailored to the proclivities of the parties and witnesses involved in each case, in addition to accounting for regional differences. In the south and southwest, for example, gated communities are more common than in the northeast.

The proposed additional methods of service are already familiar to courts and parties, as they are often used by courts today and are very similar to the rules for service of summons found in Rule 4(e).[3] Each of the additional methods of service would reduce questions regarding the sufficiency of service by providing alternatives to hand-delivery. For example, at one gated and guarded property of a prominent hedge fund CFO, package deliveries are directed to the property manager's house, a small building easily located at the front of a multi-building compound after a person enters the property through electronically controlled gates.[4] A process server would never be allowed near the main property where the CFO resides, and hand-delivery would be obstructed. However, under the amended rule, the property manager could sign for a subpoena delivery at the separate structure, regardless of whether the delivery was by a process server or commercial carrier.

Importantly, the proposed amendments provide an additional method of service that is authorized by the court for good cause and is reasonably calculated to give notice. This sensible addition would address the very frustrating circumstances that occasionally occur when someone continually evades service,[5] which is not only expensive for the party trying to serve the subpoena, but also wastes the court's time and resources.

II. Expanded Flexibility for Tendering Fees Will Facilitate Subpoena Service

AAJ supports the proposed revisions to Rule 45(b)(1)(B), which provide an alternative for tendering witness fees at the time and place that the witness is to appear, rather than at the time of service. There is no practical or policy reason for subpoena service to be bogged down by failure to deliver the witness fee simultaneously with the subpoena. Indeed, the current rule's solitary option is completely impractical given the modern methods of subpoena delivery, especially since it is not feasible for the postal service or commercial carriers to tender fees as part of their delivery

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[2] While reclusive tycoons or business moguls are the examples most frequently provided by AAJ members, famous people—including actors, entertainers, and prominent sports figures—frequently employ private security. *See, e.g.*, Jessica Schladebeck, *Man Attempting to Serve Taylor Swift Papers Arrested at Travis Kelce's Home*, THE GUARDIAN (Sept. 23, 2025).

[3] LCJ's assertion that "[t]he current methods of serving subpoenas that Rule 45 permits are working well" is surprising, as it is not reflective of the experience of AAJ members who often struggle to serve persons determined to evade service by "hiding" behind the gated fortresses of their properties. Lawyers for Civ. Just., Comment Letter on Proposed Amendments to Rule 45(b), at 2 (Oct. 10, 2025) [hereinafter LCJ Comment].

[4] The physical description of the property and the challenges it presents under the existing rule was provided to AAJ by a member.

[5] Tech giants, like Elon Musk, are notorious for evading service. It has been reported Mr. Musk evaded service by the U.S. Virgin Islands in connection to its lawsuit against JP Morgan Chase for enabling Jeffrey Epstein to sex traffic women. *Elon Musk Documents Subpoenaed in Jeffrey Epstein Lawsuit*, BBC (May 16, 2023).

services and doing so would likely lead to confusion or unnecessary disagreement over whether the fees had been delivered. In an age of electronic payment (and corresponding electronic recording keeping of such payments), it makes significantly more sense to provide an option that ensures that the witness receives the fee directly.

The argument against updating the rule to allow commercial carriers to serve subpoenas because they cannot successfully tender fees is baseless. In instances where commercial carriers serve subpoenas now, fees are tendered with the subpoena frequently by check. South Carolina's Rule 45 provides for tendering fees at the time of attendance only, an option which ensures payment of fees only when a party shows up but also provides for successful delivery of fees regardless of the method of service.[6] Other states have adopted hybrid options that are focused on securing attendance.[7] Providing the additional option makes practical sense, as the fees are only tendered once the witness appears. Arguments against this additional option for tendering fees are decidedly weak with a misplaced concern on discovery costs, rather than attendance at a trial or hearing.[8]

III. Additional Methods of Service Are Already Used by the Courts

Under Rule 45(b), a subpoena must be served by a person who is not a party and is at least 18 years old. That requirement remains unchanged by the proposed amendments. Alternative methods of service are already recognized by many courts,[9] and there is no requirement in Rule 45(b)—or any other federal rule—that process servers be used to effectuate personal delivery. Indeed, courts have recognized that Rule 45(b)(1) neither requires hand-delivery nor prohibits other methods of service.[10] In a sense, the Advisory Committee's proposed amendment is a recognition of what already happens in some courts and modernizes the rule for all.

While process servers decry alternative methods of service as violations of due process and undue burdens to courts, their argument rings hollow. First and foremost, it is in the interest of the

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[6] S.C. R. Civ. P. 45(b)(1) ("If the person's attendance is commanded, then that person shall, upon his arrival in accordance with the subpoena, be tendered fees for each day's attendance of $25.00 and the mileage allowed by law for official travel of State officers and employees from his residence to the location commanded in the subpoena.").

[7] In Georgia, witness fees for in-county witnesses are tendered when they appear while a witness who resides out-of-county from court proceeding receives a fee at the time the subpoena is served. Ga. Code Ann. § 24-13-25. Texas has a hybrid model that pays the first day's fee when the subpoena is served and subsequent day's fees when the witness attends court. Tex. Civ. Prac. & Rem. Code § 22.001 (2024).

[8] It is ironic that LCJ argues that the "witness fee is an important safeguard deeply rooted in the rule's history and purpose of protecting against abuse," since corporate clients do not need their fees paid in order to attend a trial or hearing. LCJ Comment, *supra* note 3, at 4. AAJ takes a more pragmatic approach, in part because its members represent injured people, who may not have many resources unless and until their injuries are compensated. Arguments against amending this provision are crafted to benefit the corporate defense bar but have not considered the needs and realities of individual litigants.

[9] Tristan M. Ellis, *"Delivering" a Subpoena: What Constitutes "Good Service" Pursuant to Federal Rule of Civil Procedure 45?*, 103 TEX. L. REV. ONLINE 132, 142 (2025) ("A growing minority of courts no longer construe Rule 45 as requiring in-hand personal service. For example, '[d]istrict courts in the Second Circuit routinely authorize service via other means besides personal service, i.e., "alternative" service, under Rule 45.'") (quoting In re *Three Arrows Capital, Ltd.*, 647 B.R. 440, 453 (Bankr. S.D.N.Y. 2022)).

[10] *Id.*

serving party to have the subpoenaed party show up. The serving party wants the subpoenaed party to testify at a trial, hearing, or deposition, and incomplete service defeats that goal and delays the proceeding. The plaintiff-side practitioner is especially looking for the most expeditious manner to accomplish service as repeated attempts cost both time and money. Generally, the most effective means of serving a subpoena will be through a process server. However, there are times when alternative service would be more effective, and the proposed amendments provide methods with recognized track records[11] without jettisoning current service methods, including the well-established use of process servers.

Second, process servers' arguments against updating the rule fail to recognize how technology has changed the litigation landscape.[12] A rule that only provides one option for serving a subpoena and tendering witness fees does not align with technological advances, adaptations already recognized by the courts, or changes adopted by state law or rule. For example, California law will now permit service by email or electronic media,[13] and Rule 45(b) already permits delivery by commercial carrier in South Carolina.[14] In the ordinary course of business, the additional options will not be necessary for a fact witness who has never been called to court before and will take the matter extremely seriously, but the proposed amendment ensures effective service for the person with cameras around the perimeter of their exclusive, fenced property, who doesn't want to go to court or will do everything possible to evade service.

IV. AAJ Recommended Edits to Ensure Clear Implementation

AAJ supports the new options for effecting service provided in the proposed amendment and suggests small, but important, clarifying edits to ensure clear implementation of the rule for parties and courts. A complete summary of these edits follows this comment (Attachment). AAJ does not support republication and would like to see the proposed amendments approved during this rulemaking cycle.

A. Return the text of 45(b)(1)(A)(i) to that originally proposed by the Advisory Committee

After listening to the testimony provided at the public hearing and reviewing the public comments that have been filed, AAJ believes that many of the concerns expressed regarding the proposed amendments could be alleviated by returning to the Advisory Committee's draft of the amendment approved for public comment in April 2025. That proposed text appeared in the June

[11] The proposed amendments borrow from recognized service of summons methods under Rule 4.

[12] The 2018 amendments Rule 23 recognized that first class mail was no longer the only method to provide notice and that "courts and counsel have begun to employ new technology to make notice more effective." Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment.

[13] California Governor Gavin Newsom signed the service via email or electronic media into law on October 6, 2025. *See* Cal. Civ. Proc. § 413.30 (effective Jan 1, 2026).

[14] S.C. Rule 45(b)(1) permits "Service of a subpoena upon a person named therein shall be made in the same manner prescribed for service of a summons and complaint in Rule 4(d) or (j)" with Rule 4(d)(9) providing for service by commercial carrier. S.C. R. Civ. P. 45(b)(1).

2025 agenda book of the Standing Committee:[15]

> **(A) *By Whom and How.*** Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering it to the named person by:
>
> (i) delivering a copy to the named person personally;

Structuring the rule this way is clarifying, not redundant. First, it keeps the basic requirement of the rule the same: serving a subpoena requires delivering it to the named person. This requirement is widely known and recognized by parties and courts. Second, the structure provides direction to the other provisions. Although the phrase "named person personally" is awkward, it does not result in confusion over subpoena delivery. The method of subpoena delivery which parties and courts have long recognized remains in place. While it may be better drafting to use the phrase "individual personally" (as contemplated by the Advisory Committee last spring[16]) and add a provision on service of agents as discussed in AAJ's testimony provided by Navan Ward at the public hearing, this rephrasing would avoid the need for republication.[17] Finally, and most importantly, keeping the word "person" in the rule would ensure that a 30(b)(6) subpoena can be served on a non-party. The proposed rule must not create an unintended or adverse inference that only *individuals* can be served with a subpoena under the rule.

Even small word changes to a rule can result in unintended consequences. It is common to deliver subpoenas to businesses. Can a business be "personally" served if a specific witness is not named? That is a strange construction to assume. If the Advisory Committee goes with this option, it would be helpful to add a sentence to the Committee Note confirming that the amendments do not change service of subpoenas on businesses.

For the structure of the rule to be consistent, AAJ also recommends substituting "it" for "copy" in the 45(b)(1)(A) and ensuring that "copy" is part of 45(b)(1)(A)(i) as that would mirror the use of "copy" in 45(b)(1)(A)(ii) and (iii).

B. In 45(b)(1)(A)(ii), delete "who resides there"

The purpose of this rulemaking is to specify alternatives to "hand-delivery" of subpoenas for people who resist service. To make service easier, it would be appropriate to leave the subpoena with a person of suitable age and discretion even if that person does not reside at that location. Common examples include property managers, nannies, and housekeepers. While the people employed in these occupations often live on their employers' properties, some do not. Instead, they might live close-by, in an adjacent structure or smaller building, or commute to the subpoenaed person's residence according to their work schedule. Regardless, these employees would be

[15] Appendix: Civil Rules for Publication, *in* Committee on Rules of Practice & Procedure Agenda Book 332 (June 2025).

[16] Rule 45(b) (Subpoena) (For Publication), *in* Advisory Committee to Civil Rules Agenda Book 131 (Apr. 2025).

[17] AAJ is making this requested edit as an alternative to adding a provision on "authorized agents" to avoid sending the rule back for republication.

expected, in the course of their duties, to answer the doorbell and accept deliveries. The Committee Note could also be amended to clarify this issue.

> **(ii)** leaving a copy at the person's dwelling or usual place of abode with someone of suitable age and discretion ~~who resides there~~;

C. In 45(b)(1)(A)(iii), replace "actual receipt" with "delivery"

Requiring the commercial carrier to confirm "actual receipt" is confusing. Does that mean that the named party must sign for the delivery for service to be complete? If so, service could be incomplete simply because a subpoenaed person's spouse or partner answered the door and accepted the delivery, or if the subpoena is delivered to a business witness at a commercial address and delivery is accepted by a receptionist or office manager. Furthermore, the words "actual receipt" may imply that a physical receipt by the commercial carrier is required, which is likely not the literal case in an age of electronic signature. Substituting "delivery" for "actual receipt" addresses both issues, especially since a commercial carrier can easily document the date and time when subpoena delivery occurred and maintain a record of who accepted the delivery.

> **(iii)** sending a copy to the person's last known address by a form of United States mail or commercial carrier delivery, if the selected method provides confirmation of ~~actual receipt~~ delivery; or

D. Minor textual change in 45(b)(1)(B) to provide clarity

In the first sentence, the phrase "unless the court orders otherwise" should be moved to either the beginning or the end of the sentence for ease of readability. AAJ has placed it at the end of the sentence on page 8 (See Attachment) for maximum ease of readability.

V. Recommended Changes to the Committee Note

In the Attachment to this comment, AAJ has added a short paragraph to the draft Committee Note to explain the proposed text language regarding suitable age and discretion, providing clarification for why there is no residence requirement.

The attached recommendations also amend the paragraph in the Committee Note on service by a commercial carrier by substituting "delivery" for "actual receipt" and providing that either the named party or a "person of suitable age and discretion" can sign for the delivery, thus ensuring that the subparts of the rules work together.

Additionally, AAJ recommends adding language to the Committee Note regarding the additional method of service. Adding a sentence about flexibility and technology reminds courts that the rule contemplates electronic service for individuals with a known social media presence who may be able to evade service. Finally, AAJ added a sentence clarifying that the method for serving businesses remains unchanged.

VI. Conclusion

AAJ supports the proposed Rule 45(b) amendments and believes that some further refinements would ensure that the amendments are easy to understand and implement by both parties and the courts. These amendments should save time and resources for parties serving hard to locate persons, especially the uber-wealthy who have the resources to evade service. These common-sense changes are supported by AAJ members across practice areas. Please direct any questions concerning these comments to Susan Steinman, Senior Director of Policy & Senior Counsel, at susan.steinman@justice.org.

Respectfully submitted,



Bruce Plaxen
President
American Association for Justice

ATTACHMENT

Redline of Proposed Rule 45(b)

Proposed Amendment in Red
AAJ Edits in Blue

Rule 45. Subpoena.

* * * * *

(b) Service.

(1) *~~By Whom and How; Tendering~~Means; Notice Period; Fees.*

(A) *By Whom and How.* Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering it to the named person by:

Return to original construction of rule to ensure that there is no confusion or disruption when serving businesses.

Substitute "it" for "copy" here due to the use of "copy" in (i), (ii), and (iii).

(i) delivering a copy to the named person personally;

(ii) leaving a copy at the person's dwelling or usual place of abode with someone of suitable age and discretion ~~who resides there~~;

Delete requirement that person of suitable age and discretion reside at the person's dwelling.

(iii) sending a copy to the person's last known address by a form of United States mail or commercial carrier delivery, if the selected method provides confirmation of ~~actual receipt~~ delivery; or

Use of "actual" receipt is confusing. Address by deleting "actual" from the phrase and add "delivery" at the end.

(iv) using another means that is authorized by the court for good cause and is reasonably calculated to give notice.

(B) *Time to Serve if Attendance is Required; Tendering Fees.* ~~and,~~ ~~i~~If the subpoena requires that the named person~~'s~~ attend~~ance,~~ a trial, a hearing, or deposition~~, unless the court orders otherwise,~~ the subpoena must be served at least 14 days before the date on which the person is commanded to attend, unless the court orders otherwise. In addition, the party serving the subpoena must tender~~ing~~ the fees for 1 day's attendance and the mileage allowed by law at the time of service, or at the time and place the person is commanded to appear. Fees and mileage need not be tendered when the subpoena issues on behalf of the United States or any of its officers or agencies.

The parenthetical "unless the court orders otherwise" should be moved to the end of the sentence (or to the beginning of the sentence) for ease of understanding.

COMMITTEE NOTE

Rule 45(b)(1) is amended to clarify the means of serving a subpoena. Courts have disagreed about whether the rule requires hand delivery. Though service of a subpoena usually does not present problems—particularly with regard to deposition subpoenas—uncertainty about what the rule requires has on occasion caused delays and imposed costs.

The amendment removes that ambiguity by providing that methods authorized under Rule 4(e)(2)(A) and (B) for service of a summons and complaint constitute effective service of a subpoena. Though the issues involved with service of a summons are not identical with service of a subpoena, the basic goal is to give notice and the authorized methods should assure notice. In place of the current rule's use of "delivering," these methods of service also are familiar methods that ought to easily adapt to the subpoena context.

In 45(b)(1)(A)(ii), while there is a requirement that the subpoena be left with someone of suitable age and discretion, there is no requirement that the person reside there. In some instances, there are people employed as nannies, housekeepers, and property managers, who may not reside on the property but who would be routinely expected in the course of their duties to take responsibility for deliveries.

The amendment also adds another option—service by United States mail or commercial carrier to the person's last known address, if the selected method provides confirmation of delivery ~~actual receipt~~. The rule does not prescribe the exact means of confirmation, but courts should be alert to ensuring that there is reliable confirmation of delivery ~~actual receipt~~, such as by the named party or a person of suitable age and discretion. *Cf.* Rule 45(b)(4) (proving service of subpoena).

Experience has shown that this method regularly works and is reliable.

The amended rule also authorizes a court order permitting an additional method of serving a subpoena so long as that method is reasonably calculated to give notice. A party seeking such an order must establish good cause, such as evasion of service, which ordinarily would require at least first resort to the authorized methods of service. The rule is intended to be flexible and accommodate electronic means of service and new technologies. The application should also demonstrate that the proposed method is reasonably calculated to give notice.

Nothing in the proposed amendment changes the method for serving a subpoena on a non-party business where service is routinely accepted at the business location.

The amendment adds a requirement that the person served be given at least 14 days' notice if the subpoena commands attendance at a trial, hearing, or deposition. Rule 45(a)(4) requires the party serving the subpoena to give notice to the other parties before serving it, but the rule does not presently require any advance notice to the person commanded to appear. Compliance may be difficult without reasonable notice. Providing 14-day notice is a method of avoiding possible burdens on the person served. In addition, emergency motions for relief from a subpoena can burden courts. For good cause, the court may shorten the notice period on application by the serving party.

The amendment also simplifies the task of serving the subpoena by removing the requirement that the witness fee under 28 U.S.C. § 1821 be tendered at the time of service as a prerequisite to effective service. Though tender at the time of service should be done whenever practicable, the amendment permits tender to occur instead at the time and place the subpoena commands the person to appear. The requirement to tender fees at the time of service has in some cases further complicated the process of serving a subpoena, and this alternative should simplify the task.

AMERICAN ASSOCIATION FOR JUSTICE®
The Association for Trial Lawyers

February 13, 2026

Committee on Rules of Practice and Procedure
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Re: Proposed Amendments to FRCP 45 & 26 (Subpoena for Remote Testimony)

Dear Members of the Committee on Rules of Practice and Procedure:

The American Association for Justice ("AAJ") submits this comment regarding the amendments to FRCP 45(c) and 26(a) related to subpoenas for remote testimony proposed by the Advisory Committee on Civil Rules ("Advisory Committee"). AAJ is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world's largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury and wrongful death actions, employment rights cases, consumer cases, class actions, and other civil actions in federal courts nationwide. AAJ supports the proposed amendments to Rules 45(c) and 26(a) and agrees that they adequately resolve the Ninth Circuit's misinterpretation in *In re Kirkland* and restores nationwide subpoena authority. AAJ recommends modest clarifications to the rule text and Committee Note to eliminate ambiguity, preserve existing remote-testimony practices, and ensure that courts retain the flexibility necessary for meaningful, reliable fact-finding.

I. The Proposed Amendments Fix *Kirkland* and Modernize Subpoena Authority

The proposed amendments address a pressing problem: correcting the Ninth Circuit's misinterpretation in *In re Kirkland*, which threatened to exclude vital testimony solely because of geographic happenstance. The Committee's proposal appropriately restores the nationwide subpoena authority that has existed since the 2013 amendments and provides clarity desperately needed by courts, litigants, and witnesses.

The 2013 amendments unambiguously authorized nationwide service of subpoenas, while preserving Rule 45(c)(1)'s longstanding 100-mile protection against compelled travel. *Kirkland* erroneously conflated "place of attendance" with physical presence in the courtroom and misconstrued the interaction between service and attendance requirements. The result was a rule that turned on geography rather than fairness, practicality, or the truth-seeking function of trial.

The proposed amendments clarify that courts may compel remote trial testimony from any witness nationwide so long as the witness is not required to travel beyond the 100-mile limitation.

This approach restores the balance intended by the 2013 amendments: robust nationwide subpoena authority paired with meaningful protection against undue travel burdens.

II. Remote Testimony Is Efficient, Cost-Effective, and Subject to Reasonable Safeguards

Federal courts' experience since 2020 has demonstrated that remote proceedings are not only feasible but, in many circumstances, essential to the administration of justice. During the COVID-19 pandemic, virtually every federal district court conducted hearings, bench trials, and even complex jury trials through remote or hybrid means.[1] The Federal Judicial Center has similarly reported that federal judges' use of videoconferencing technology in court "increased dramatically in response to the COVID-19 pandemic."[2] The vast majority of judges who presided over those remote or hybrid court proceedings reported positive experiences with the technology and indicated that remote videoconferencing practices should extend beyond the pandemic where appropriate.[3]

This experience confirms what practitioners have long recognized: modern videoconferencing technology supports the adversarial process without diminishing fairness, reliability, or accuracy.[4] Trial courts already employ tried-and-true safeguards to protect the integrity of remote testimony, including standardized protocols governing who may be in the room with the witness, camera positioning and visibility, screen-sharing limitations, verification of witness identities, restrictions on the use of documents or notes off-camera, and backup procedures for connectivity interruptions.

The proposed amendments reflect this reality while preserving the longstanding presumption that testimony at trial should occur in person. Rule 43(a) continues to require live testimony "in open court," and courts retain full discretion to require in-person examination whenever circumstances warrant.[5] The amendments do not create an entitlement to remote testimony; they simply clarify that courts may order it when good cause exists and when doing so enables live, contemporaneous testimony that would otherwise be lost.

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[1] *See, e.g.*, *infra* note 12.

[2] Carly Giffin & Rebecca Eyre, *Results of a Survey of U.S. District and Magistrate Judges: Use of Virtual Technology to Hold Court Proceedings*, FED. JUD. CTR. 1 (May 2022).

[3] *Id.* at 12; *see also* Karen Lisko, *Bearing Witness to, Well, Witnesses: An Examination of Remote Testimony Versus In-Court Testimony*, 51 SW. L. REV. 63 (2021).

[4] *See* NAT'L CTR. FOR STATE CTS., REMOTE PROCEEDING TOOLKIT 8 (2024) ("[A]llowing remote participation supports due process, equal access, transparency, fairness, and safety. Remote proceedings reduce barriers to appearing in court, improve public access, and are responsive to the diverse needs and preferences of court users.").

[5] Although several defense-side commenters have urged the Advisory Committee to amend Rules 43 and 45 simultaneously, that proposal risks conflating two fundamentally distinct inquiries and would unnecessarily complicate the Committee's work. The discrete subpoena-authority issue highlighted by *In re Kirkland* concerns the geographic reach and compulsion of testimony under Rule 45, whereas Rule 43 governs a separate, case-specific judicial determination based on good cause and appropriate safeguards. AAJ therefore supports the Committee's decision to proceed incrementally and solicit focused public comment on the independent legal framework governing remote testimony.

A. Remote testimony is materially superior to prerecorded depositions

In practice, litigants rarely face a choice between in-person testimony and live remote testimony. Rather, the true choice is between live testimony and a prerecorded deposition—often taken months or years before trial and without the benefit of contemporaneous cross-examination or impeachment. Deposition testimony is often stale, dry, and uninteresting. While in-person testimony remains the gold standard, live remote testimony is the closest functional equivalent and far superior to written or prerecorded substitutes. Courts have long recognized that remote testimony does not undermine confrontation principles in civil cases and can enhance accuracy by enabling real-time questioning in ways that deposition video cannot.

Live testimony—whether delivered in person or through remote means—preserves a factfinder's ability to evaluate demeanor, tone, responsiveness, hesitation, and other nonverbal cues that are flattened or lost in prerecorded depositions.[6] But given the speed and clarity of modern videoconference technology, live remote testimony "satisfies the goals of live, in-person testimony and avoids the short-comings of deposition testimony," by enabling the factfinder "to see the live witness along with 'his hesitation, his doubts, his variations of language, his confidence or precipitancy, [and] his calmness or consideration.'"[7]

Empirical research reinforces this point. Controlled mock-trial experiments repeatedly show that contemporaneous live testimony is perceived as more credible, engaging, and informative than prerecorded video or transcript formats.[8] In short, real-time testimony supports the fact-finding function in ways that prerecorded depositions do not. Remote testimony, therefore, directly advances the truth-seeking mission embedded in Rule 43(a) and throughout the Federal Rules. Used flexibly and with judicial oversight, it ensures that the factfinder receives reliable, probative, and real-time evidence that would otherwise be unavailable, thereby promoting fairness and efficiency.

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[6] *Cf. Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 511 (1947) ("The very ceremony of trial and the presence of the fact-finder may exert a powerful force for truthtelling. The opportunity to judge the demeanor of a witness face-to-face is accorded great value in our tradition."); *Napier v. Bossard*, 102 F.2d 467, 469 (2d Cir. 1939) (Learned Hand, J.) (stating the deposition is "a substitute, a second-best, not to be used when the original is at hand").

[7] *In re Vioxx Prods. Liab. Litig.*, 439 F. Supp. 2d 640, 644 (2006) (quoting *Arnstein v. Porter*, 154 F.2d 464, 470 (2d Cir. 1946)).

[8] In the classic BYU studies, jurors who heard live testimony reported higher interest, better recall of evidence, and more favorable impressions of witnesses than those who viewed videotaped presentations of the same testimony. *See* Gerald R. Miller et al., *The Effects of Videotape Testimony in Jury Trials*, 1975(2) BYU L. Rev. 331 (finding that jurors who heard live testimony showed greater information retention, higher interest, and more positive assessments of attorneys and witnesses compared to jurors who viewed videotaped presentations); Gerald R. Williams et al., *Juror Perceptions of Trial Testimony as a Function of the Method of Presentation*, 1975(2) BYU L. Rev. 375 (finding that survey participants rated live testimony more favorably across multiple credibility-related dimensions than videotaped, audio-only, or transcript formats). More recent evidence reviews—such as the Scottish Government's synthesis of live-link and prerecorded-evidence studies—likewise conclude that prerecorded video often reduces jurors' perception of a witness's immediacy, emotional clarity, and overall credibility, even when verdicts ultimately converge. VANESSA MUNRO, THE IMPACT OF THE USE OF PRE-RECORDED EVIDENCE ON JUROR DECISION-MAKING: AN EVIDENCE REVIEW (2018).

B. Remote testimony increases geographic access to the courthouse

Modern federal litigation regularly involves witnesses spread across the country, particularly in class actions or MDLs. However, geographic disparities in access to federal courthouses significantly affect litigants and non-party witnesses. Physical attendance may impose severe burdens on witnesses who live far from federal courthouses, particularly in large states, rural regions, or districts with sparse courthouse coverage. Moreover, even the most well-planned in-person testimony may be thwarted by travel disruptions,[9] weather emergencies, caregiving responsibilities, medical issues, or shifting trial schedules. Courts have recognized that compelling physical attendance under such conditions can constitute undue burden or expense under Rule 45(d).[10]

Excluding testimony in these nationwide cases because a witness lives 101 miles away from the courthouse is out of step with modern litigation realities.[11] Indeed, *Kirkland* itself involved witnesses who were outside the 100-mile radius but who could have testified remotely without hardship or prejudice. Rigid geographic limits on the subpoena power, therefore, risk excluding essential testimony solely because a witness falls on the wrong side of an arbitrary mile marker. The proposed amendments appropriately respond to this problem by ensuring that geography does not dictate whether a jury may hear material testimony. The judiciary's experience during and after the COVID pandemic demonstrates that remote testimony is a practical, reliable solution to disruptions and ensures that trials proceed efficiently rather than grinding to a halt.

III. Modest Textual Changes Would Avoid Ambiguity and Protect Existing Remote Practices

AAJ supports the proposed amendments and appreciates the Committee's effort to correct *Kirkland* while reaffirming the protections embedded in Rule 45(c)(1). To ensure that courts and litigants apply the rule consistently—and to avoid unintended consequences for the robust remote-testimony practices courts have already adopted—AAJ recommends modest clarifications to the rule text and Committee Note. These refinements would preserve the Committee's intent, promote uniform application across circuits, and prevent misreadings rooted in syntax or terminology.

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[9] *See* Alessandro Bombelli & Jose Maria Sallan, *Analysis of the Effect of Extreme Weather on the US Domestic Air Network*, 107 J. TRANSP. GEOGRAPHY, no. 103541, Feb. 2023, at 2 ("[I]n the last decades there has been a staggering rise in extreme weather events, with their number almost doubling between the period 1980-1999 and 2000-2019. As such, the impact of extreme weather on air transport is expected to increase in significance. . . .").

[10] *E.g.*, *FTC v. Swedish Match N. Am., Inc.*, 197 F.R.D. 1, 2 (D.D.C. 2000) ("I am mystified as to why anyone would think that forcing a person to travel across the continent is reasonable when his testimony can be secured by means which are a) equivalent to his presence in court and b) preferable to reading his deposition into evidence."); *Beltran-Tirado v. INS*, 213 F.3d 1179, 1186 (9th Cir. 2000) (suggesting that geographical limitation is sufficient cause for contemporaneous video testimony).

[11] *See* Transcript of Proceedings, *Hearing on Proposed Amendments to Federal Rules of Civil Procedure*, Advisory Committee on Civil Rules (Jan. 27, 2026) (statement of Rachel Downey, Hagens Berman) (forthcoming).

A. Recommended clarification to the rule text

To avoid ambiguity arising from inconsistent usage of the terms "place" and "location," AAJ recommends the following additions to proposed Rule 45(c)(1):

> For Remote Testimony. Under Rule 45(c)(1), the place of attendance for remote testimony is the location from where the person is commanded to provide the remote testimony.

This revision makes explicit what the proposed amendment already implies: when a witness provides testimony remotely, the "place of attendance" under Rule 45(c)(1) is the witness's physical location. The distinction between "place of testimony" and "place of attendance" became a source of confusion in *Kirkland*, where the Ninth Circuit implicitly treated "attendance" as synonymous with being physically present in the same courtroom as the judge. That reading conflicted with both the 2013 amendments and longstanding Rule 43 jurisprudence, which recognize that testimony may occur in open court even when delivered by contemporaneous transmission from a remote location. Clarifying that "place of attendance" refers to the witness's location also ensures the rule cannot be misconstrued in future cases, maintains internal consistency within the rule and Committee Note, and reduces the risk of interpretive divergence among district courts.

B. Recommended revision to Committee Note

To avoid confusion about whether remote testimony occurs at the witness's physical location or in the courtroom and prevents unintended collateral consequences, AAJ recommends the following revision to the third paragraph of the draft Committee Note:

> For purposes of Rule 43 and Rule 77(b), such remote testimony should be considered as occurring in the court where the trial or hearing is conducted.

Clarity in the Committee Note is equally important. As drafted, the Note could be mistakenly read to suggest that remote testimony "occurs" at the witness's location, potentially affecting venue, jurisdictional questions, courtroom management, and even the public's right of access. Courts have long held that remote testimony is deemed to occur in the courtroom for purposes of Rule 43(a)'s "open court" requirement, even when the witness appears from a distant location.[12]

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[12] Under Rule 43(a), courts routinely treat live remote testimony as "testimony taken in open court"—the same purpose served by in-person testimony—when contemporaneous transmission is employed and appropriate safeguards are in place. Courts have long interpreted Rule 43(a)'s "open court" requirement to encompass contemporaneous remote testimony, even when the witness appears from a distant location. *See, e.g.*, *Liu v. State Farm Mut. Auto. Ins. Co.*, 507 F. Supp. 3d 1262 (W.D. Wash. 2020) (holding that Rule 43(a)'s open-court purposes of cross-examination and demeanor assessment are fully satisfied by videoconference testimony and directing a jury trial to proceed remotely); *In re RFC*, 444 F. Supp. 3d at 971 ("Given the speed and clarity of modern

(*Footnote continued*)

IV. Conclusion

AAJ greatly appreciates the Advisory Committee's careful attention to this issue and strongly supports the proposed amendments to Rules 45(c) and 26(a). These reforms restore clarity to nationwide subpoena authority, correct *In re Kirkland*, and ensure that federal courts remain accessible to witnesses, litigants, and jurors in a national system of justice. By facilitating live testimony regardless of geography, the amendments promote fairness, accuracy, and the ability of parties and witnesses to meaningfully participate in the judicial process, even when courts sit far from where they live or work. Please direct any questions regarding these comments to Susan Steinman, Senior Director of Policy & Senior Counsel, at susan.steinman@justice.org or Kaiya Lyons, Associate General Counsel, at kaiya.lyons@justice.org.

Respectfully submitted,



Bruce Plaxen
President
American Association for Justice

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videoconference technology, where good cause and compelling circumstances are shown, such testimony satisfies the goals of live, in-person testimony and avoids the short-comings of deposition testimony."); *Gould Elecs. Inc. v. Livingston Cty. Rd. Comm'n*, 470 F. Supp. 3d 735, 742–44 (E.D. Mich. 2020) (bench trial by videoconference does not violate due process; Rule 43(a) satisfied); *Aoki v. Gilbert*, No. 2:11-cv-02797, 2019 WL 1243719, at *1 (E.D. Cal. Mar. 18, 2019) (finding that appropriate safeguards existed to allow witnesses to appear by videoconference because the witnesses "will testify under oath, and will be subject to cross-examination"); *Warner v. Cate*, 2015 WL 465019, at *2 (E.D. Cal. Aug. 4, 2015) ("Because a witness testifying by video is observed directly with little, if any delay in transmission . . . courts have found that video testimony can sufficiently enable cross-examination and credibility determinations, as well as preserve the overall integrity of the proceedings."); *In re Vioxx*, 439 F. Supp. 2d at 644 (holding contemporaneous video testimony permits the factfinder to observe the witness's demeanor and thus "satisfies the goals of live, in-person testimony"); *Swedish Match N. Am., Inc.*, 197 F.R.D. at 2 (finding "no practical difference between live testimony and contemporaneous video transmission").

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Comment from Lawyers for Civil Justice

Posted by the **United States Courts** on Feb 17, 2026

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LCJ Public Comment on R 45 Remote Testimony Proposal Feb 13 2026

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PUBLIC COMMENT ON PROPOSED AMENDMENT TO RULE 45(c)
to the
ADVISORY COMMITTEE ON CIVIL RULES

AVOIDING DISCONNECTED SERVICE: RULE 45 SHOULD REQUIRE PRIOR COURT APPROVAL FOR SUBPOENAS COMMANDING REMOTE TRIAL TESTIMONY

February 13, 2026

Lawyers for Civil Justice ("LCJ")[1] respectfully submits this Comment to the Advisory Committee on Civil Rules ("Advisory Committee") in response to the Judicial Conference Committee on Rules of Practice and Procedure's Request for Comments on the proposed amendments to Federal Rule of Civil Procedure ("FRCP") Rule 45 (the "Preliminary Draft").[2]

INTRODUCTION

The proposed amendment to Rule 45 addressing remote trial testimony—intended to clarify the power of district courts to issue subpoenas to witnesses anywhere in the country for remote testimony—is unnecessary and risks serious unintended consequences.[3] Because the function of

[1] Lawyers for Civil Justice ("LCJ") is a national coalition of corporations, law firms, and defense trial lawyer organizations that promotes excellence and fairness in the civil justice system to secure the just, speedy, and inexpensive determination of civil cases. Since 1987, LCJ has been closely engaged in reforming federal procedural rules in order to: (1) promote balance and fairness in the civil justice system; (2) reduce costs and burdens associated with litigation; and (3) advance predictability and efficiency in litigation.

[2] *Preliminary Draft, Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, and Civil Procedure* (Aug. 2025), https://www.uscourts.gov/sites/default/files/document/preliminary-draft-of-proposed-amendments-to-federal-rules_august2025.pdf.

[3] *See* Lawyers for Civil Justice, Rules Suggestion, *Don't Touch the Remote: The FRCP are Providing Appropriate Guidance for Remote Testimony and Should Not Be Amended* (July 25, 2024), https://www.uscourts.gov/sites/default/files/24-cv-n_suggestion_from_lcj_-_rule_43_and_rule_45.pdf; and Lawyers for Civil Justice, Rules Suggestion, *Amending Rule 45: Why Expanding the Reach andMethods of Service of Subpoenas Should Not Render the Rule's Witness Protections Empty Words* (Mar. 7, 2025) https://www.uscourts.gov/sites/default/files/2025-03/25-cv-f_suggestion_from_lcj_-_rule_45_1.pdf.

Rule 45 is intertwined with the standards and process of Rule 43, the Advisory Committee should not proceed with Rule 45 amendments separately if it intends to propose a Rule 43 amendment; it should produce one comprehensive package rather than handle related issues piecemeal.

If, however, the Advisory Committee elects to proceed, it is essential that Rule 45 also be amended to require prior judicial approval before a subpoena for remote testimony may issue. Absent such a safeguard, the amendment will invite abusive over-designation of remote witnesses and entangle courts in frequent and contentious disputes concerning both party and non-party witnesses.

The companion proposal to amend Rule 26 to require disclosure of whether a witness's testimony "will be in person or remote" in no way cures this defect. To the contrary, it only encourages over-designation of remote testimony, creating new burdens for non-party witnesses[4] and increasing motion practice and judicial burden rather than reducing it.

I. ANY AMENDMENT TO RULE 45's "PLACE OF ATTENDANCE" FOR REMOTE TESTIMONY SHOULD REQUIRE JUDICIAL APPROVAL PRIOR TO THE ISSUANCE OF SUBPOENAS FOR REMOTE TESTIMONY

If the Advisory Committee proceeds with an amendment to Rule 45(c)'s place-of-attendance provisions, notwithstanding the significant risk of new and more frequent disputes over witness availability—especially as to apex witnesses, the amendment should require a prior judicial determination under Rule 43(a) that remote testimony is appropriate for that witness before a subpoena can be issued under Rule 45(c).

As Judge Bates observed at the October 2024 Advisory Committee meeting, subpoenas commanding remote testimony are fundamentally different from ordinary trial subpoenas because remote testimony cannot occur absent a court order under Rule 43(a). Judge Bates' view is:

> …the process might require getting an order from the judge permitting remote testimony under the strict requirements of Rule 43(a), likely with participation from the other parties as opposed to *ex parte*, followed by service of both the Rule 43(a) order and the subpoena on the witness. [5]

Because Rule 43 sets the standards for remote testimony,[6] it is inextricably linked to Rule 45's function governing the issuance of subpoenas for remote testimony. Allowing parties to issue

[4] Rule 45 recognizes the need to provide more protections for non-parties. FED. R. CIV. P. 45(d)(1).

[5] Minutes, Civil Rules Advisory Committee, Oct. 10, 2025, Agenda Book, Advisory Committee on Civil Rules, Apr. 1, 2025 at 73, https://www.uscourts.gov/sites/default/files/2025-03/2025-04-civil-rules-committee-agenda-book-final-updated-3.28.25.pdf.

[6] Importantly, Rule 43 articulates the reasons courts should prefer in-court testimony. FED. R. CIV. P. 43 advisory committee's note to 1996 amendment ("The importance of presenting live testimony in court cannot be forgotten. The very ceremony of trial and the presence of the factfinder may exert a powerful force for truthtelling. The opportunity to judge the demeanor of a witness face-to-face is accorded great value in our tradition."). These reasons

subpoenas for remote testimony without prior judicial approval—particularly under an amendment that expands the practice nationwide—would erode judicial control over trial proceedings and confuse courts and parties about Rule 43's core requirement that the court decide, on a witness-by-witness basis, whether remote trial testimony is warranted.

Judicial discretion over remote trail testimony is essential because not all witnesses are equally important, necessary, or foundational to a trial. The merits and practical propriety of remote testimony must be determined before, not after, compulsory process issues and cross-jurisdictional enforcement issues arise.

An appropriate Rule 45 amendment might say: "A subpoena commanding remote trial testimony must attach a copy of the court's order pursuant to Rule 43(a) permitting the witness to testify remotely." Absent such a requirement, counsel will be incentivized to issue subpoenas for remote testimony, nationwide, even where there is no reason at the time of issuance to foresee unavailability for in-court testimony. Practice will inevitably devolve to merely noting that such subpoenas are contingent on a court order—a meaningless papering-over of the problems created by unfettered subpoenas for remote trial testimony. Witnesses will be unnecessarily disrupted and inconvenienced. Overuse of remote designations will become a tactical ploy for attorney gamesmanship, leading to avoidable motion practice as witnesses seek protection in their local districts from the overreach of remote litigation, and courts will be required to police disputes about long-distance subpoenas.

II. THE PROPOSED RULE 26 NOTICE REQUIREMENT CANNOT SUBSTITUTE FOR PRIOR JUDICIAL APPROVAL

The proposal to amend Rule 26 to require pretrial disclosure of whether a witness's trial testimony "will be in person or remote" is not a cure for the problems created when subpoenas for remote trial testimony issue before any court has found grounds for remote testimony that meet Rule 43(a)'s standards. A disclosure obligation—even if satisfied—imposes no substantive check on a party's unilateral decision to designate a witness for remote trial testimony. Instead, it would force the opposing party to object at an unnecessarily early date in the litigation. No matter what happens at the time of the initial disclosure, a subpoena would enforce the designation of remote testimony through compulsory process and would engender additional motion practice. It would also spur non-party witnesses to seek a Rule 43(a) ruling. Pretrial disclosure would lead to more court rulings, not fewer.

Thus, rather than mitigating the risks posed by expanded subpoena authority for remote testimony, the proposed Rule 26 amendment is more likely to exacerbate them. It would encourage parties to over-designate witnesses for remote testimony as a default, particularly for high-value or potentially inconvenient witnesses. Lawyers will inevitably designate all persons with knowledge of facts as witnesses who may attend in person or remotely to cover both bases. This over-designation will, in turn, predictably lead to increased and earlier motion practice over

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remain equally valid today. "Nearly all who have practiced law in recent years are familiar with the drawbacks inherent in the technology. . . . Virtual court appearance is, at best, a backup solution when the alternative is unavailable. It is preferable in every regard for the parties, the witnesses, the attorneys, the judge, and the jury to be in a room with one another." *Tranter v. Z&D Tour, Inc.*, 343 A.3d 1106, 1130-31 (Pa. 2025) (footnote omitted).

whether particular witnesses may appear remotely—precisely the disputes that prior judicial approval under Rule 43(a) would prevent.

Unlike a Rule 45 amendment requiring judicial approval prior to the issuance of a subpoena for remote testimony, a mere notice provision is not a meaningful safeguard of the court's authority or the parties' and witnesses' interests. Far from streamlining trial management, the proposed Rule 26 requirement will invite cautious and strategic behavior, impose unnecessary burdens on witnesses, and increase—not decrease—the volume of pretrial disputes courts must resolve.

III. ANY RULE 45 AND RULE 43 AMENDMENTS RELATING TO REMOTE TESTIMONY SHOULD BE PROPOSED AND CONSIDERED IN A SINGLE PACKAGE RATHER THAN PIECEMEAL

The Advisory Committee should not proceed with the Preliminary Draft amendment to Rule 45(c)'s "place of compliance" separately at this time if it intends to propose an amendment to Rule 43 in the near future. Although they are separate rules, courts and parties use them conjointly. The sequence of (1) immediately clarifying/allowing nationwide issuance of subpoenas for remote testimony under Rule 45 and (2) later providing/changing the standards for permitting remote trial testimony, makes no sense. A staggered process would confront courts with an extended period of flux.

If the Advisory Committee is going to amend both rules, it should do so together in one package. This would protect the integrity of the rulemaking process while also enhancing public input about the totality of the changes. It would also help courts and parties to understand one set of unified changes at one time, rather than seriatim changes to intertwined rules. The Advisory Committee did not receive any public comments or testimony suggesting an exigent reason to amend Rule 45(c).

CONCLUSION

For both jurisprudential and practical reasons, the Advisory Committee should not proceed with the unnecessary proposal to amend Rule 45(c)'s "place of compliance." Nonetheless, if it is going to do so, it should deal with the rules governing remote testimony in one package, rather than piecemeal. Most importantly, any change to Rule 45(c) should include a clear requirement for witness-specific judicial approval prior to issuance of any subpoena for remote testimony—otherwise, the court's ability to manage the case will be undermined, motion practice will escalate (perhaps involving courts in more than one district), and the risk of unfairness to non-party witnesses who are compelled to testify at remote locations will intensify. The proposed Rule 26 notice requirement will not suffice and will likely make things worse. An appropriate Rule 45 amendment would require subpoenas commanding remote trial testimony to attach a copy of the court's order pursuant to Rule 43(a) authorizing the remote testimony.

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Comment from Anonymous

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Comment

I agree with the change to Rule 41(a) permitting a Plaintiff to voluntarily dismiss one or more claims within an action. It would help streamline litigation, on claims that both parties agree would be extinguished, without forcing Plaintiffs to restart the whole case.

I also agree with the proposed change to Rule 45(b). I have had difficulties in the past with effectively serving a subpoena on a witness due to evasion. I think having a subpoena served by certified mail could help reduce the chance of evasion and provide a more affordable means of service for parties.

I don't really like the proposed change to Rule 26(a)(3)(A)(i), because it may not be apparent at the initial disclosure stage whether a witness will be remote or in person. To avoid uncertainty, I would like this rule to remain as it currently stands.

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Comment from Skinner, Stephen

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Rule45 commentary

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February 13, 2026

Advisory Committee on Civil Rules,
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE Washington, DC 20544
Submitted via regulations.gov

Re: Public Comment in Support of Proposed Amendments to Federal Rules of Civil Procedure 45(c) and 26(a) — Subpoena Power for Remote Testimony

Dear Members of the Advisory Committee:

I write in support of the proposed amendments to Rules 45(c) and 26(a), which would restore and clarify nationwide subpoena authority for remote testimony and require disclosure of whether witnesses will testify in person or remotely.

The Ninth Circuit's Decision in *In re Kirkland* Created an Unjust Gap in the Rules

In *In re Kirkland*, 75 F.4th 1030 (9th Cir. 2023), the Ninth Circuit held that Rule 45(c)'s 100-mile geographic limitation applies even when a witness is commanded to testify remotely by contemporaneous video transmission. The court acknowledged that technology and post-pandemic professional norms have changed expectations about how proceedings should be conducted but concluded that the text of Rule 45(c) as currently written does not permit courts to compel remote testimony from witnesses beyond the geographic limits.

While the Ninth Circuit's textual analysis may be defensible under the current rule, its practical consequences are untenable. The decision effectively forces litigants to choose between stale deposition testimony and the inability to present live witness testimony at trial—a choice that undermines the truth-seeking function of the adversarial process. Live, contemporaneous testimony—even when delivered remotely—is far superior to pre-recorded deposition video. It permits real-time cross-examination responsive to how the trial actually unfolds, allows the jury to assess demeanor and credibility, and ensures that testimony addresses the issues as they develop at trial.

The Amendment Is Particularly Important for Plaintiffs in Personal Injury and Consumer Litigation

In personal injury and consumer protection cases, critical witnesses—including corporate officers, treating physicians, and expert witnesses—frequently reside outside the 100-mile radius of the court where the action is pending. Under *Kirkland*, plaintiffs are left with no means to compel live trial testimony from these witnesses, even though the minimal burden of appearing remotely from the witness's own location is negligible compared to the evidentiary value of live testimony.

This dynamic disproportionately benefits defendants, particularly corporate defendants who can strategically locate key personnel outside the subpoena range of courts where litigation is likely to occur. The proposed amendment eliminates this tactical advantage by defining the "place of attendance for remote testimony" as the location where the witness appears for the transmission, not the courthouse—thereby restoring the nationwide reach that the 2013 amendments to Rule 45 were intended to provide.

The Companion Amendment to Rule 26(a) Promotes Transparency

The proposed amendment to Rule 26(a), requiring parties to disclose whether each witness is expected to testify in person or remotely, is a sensible companion provision. Early disclosure of the mode of testimony allows all parties to plan accordingly and reduces the potential for disputes at trial.

Conclusion

The proposed amendments to Rules 45(c) and 26(a) correct an unintended gap in the rules exposed by *In re Kirkland* and reflect the reality that remote testimony technology has fundamentally changed how proceedings can and should be conducted. Live remote testimony is preferable to stale deposition video in virtually every circumstance. I respectfully urge the Advisory Committee to adopt these amendments.

Respectfully submitted,

/s/

Stephen G. Skinner

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Comment from Vasil, Lauren

Posted by the **United States Courts** on Feb 17, 2026

Comment

I am writing to express my strong opposition to this proposal. This industry is comprised of dedicated professionals, and the proposed changes would significantly impact the livelihoods of many individuals. We have worked so hard all these years and so many people this will hurt.

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USC-RULES-CV-2025-0004-0263

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Received Date

AMERICAN CIVIL ACCOUNTABILITY ALLIANCE

February 13, 2026

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Re: Proposed Amendment to Federal Rule of Civil Procedure 7.1 [USC-RULES-CV-2025-0004-0001]

Dear Members of the Committee:

The American Civil Accountability Alliance (ACAA) respectfully submits this comment on the proposed amendment to Federal Rule of Civil Procedure 7.1. The ACAA is a nonpartisan, nonprofit advocacy organization dedicated to preserving Americans' ability to pursue justice through the courts. We are building a coalition of litigation finance professionals, legal practitioners, academics, and consumer advocacy organizations.

The ACAA supports the core purpose of Rule 7.1 -- namely, enabling judges to identify potential financial conflicts of interest that may require recusal, thereby safeguarding judicial impartiality and public confidence in the courts. Given the evolving legal structures of many businesses, we agree that it makes sense to narrowly expand the scope of Rule 7.1, as the drafted amendment does, to include limited liability partnerships and other "business organizations" that are not organized as "corporations."

However, we urge you to reject any attempts to extend the scope of Rule 7.1 beyond the drafted amendment's narrow, targeted expansion. Turning Rule 7.1 into a sweeping disclosure mandate for litigants who rely on third-party financing -- as some have proposed -- would impose unnecessary and arguably unconstitutional burdens on those litigants and undermine their access to justice, all while doing nothing to actually help judges identify genuine conflicts of interest.

Requiring early, public disclosure of third-party financing agreements, could expose information that parties would not otherwise be required to reveal, such as internal ownership structures, confidential financial terms and budgets, and strategic

assessments. Mandatory disclosure of this information could give opposing parties an unfair advantage by offering them a clear view of the funded party's financial position and litigation strategy.

The ACAA is particularly concerned about the chilling effect that overly broad disclosure requirements may have on Americans' access to the courts in practice, not merely in theory. Commercial litigation is expensive, and small businesses and individuals frequently turn to external sources of financing to defend their rights.

If third parties fear that overbroad disclosure requirements will bring them negative publicity that jeopardizes their professional and commercial relationships, they may hesitate to provide the funding that small businesses and individuals need.

And in cases such as NAACP v. Button, 371 U.S. 415 (1963), the Supreme Court has recognized that the First Amendment protects Americans' right to fund and support litigation as a form of political expression and association. Similarly, in cases such as NAACP v. Alabama, 357 U.S. 449 (1958), the Court has held that onerous disclosure requirements can be used to chill the exercise of those rights. In other words, disclosure requirements that are transparently meant to deter third-party litigation financing are not merely unwise -- they are arguably unconstitutional.

A disclosure regime that targets only contingent, non-recourse litigation finance -- capital advanced in exchange for a share of any recovery -- would disproportionately burden small businesses, individuals, and families who lack the resources to self-fund complex cases.

Yet, such a regime would ignore the far more pervasive third-party capital available to well-resourced defendants, including general-recourse loans, equity financing, insurance-funded defense, and trade association support. All are forms of third-party financing, but only one would be singled out for special scrutiny. This asymmetry would undermine, rather than advance, the fairness and access to justice that the Federal Rules are designed to protect.

Extensive new disclosure requirements are also unnecessary. Numerous district courts have already used existing rules -- such as Rule 83 -- to review third-party funding agreements in-camera and determine any possible conflicts of interest, without revealing sensitive information to opposing parties.

Such disclosures actually threaten to obscure, rather than reveal, conflicts of interest. As the Advisory Committee noted when it adopted Rule 7.1, "[u]nnecessary disclosure of volumes of information may create a risk that a judge will overlook the one bit of information that might require disqualification."

It's worth mentioning that genuine conflicts of interest regarding third-party litigation financing are extraordinarily, almost inconceivably rare -- due to the fact that litigation funders typically maintain diversified portfolios spanning numerous unrelated cases, and are often diversified across industries entirely unrelated to litigation funding. A judge's hypothetical investment in a funder that in some manner invested in a particular case wouldn't impact his or her ability to fairly adjudicate any specific case, just as a judge's investment in an S&P 500 index fund doesn't preclude him or her from hearing cases involving large, publicly traded companies.

For these reasons, ACAA respectfully urges the Committee to reject any attempts to expand the scope of Rule 7.1 beyond the draft amendment's narrow clarification. Such attempts would jeopardize equal access to the courts without delivering any meaningful benefits. Thank you for the opportunity to submit these comments. We welcome any opportunity to engage further on this issue.

Sincerely,

American Civil Accountability Alliance

An official website of the United States Government.

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Comment from Florida Association of Professional Process Servers

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

The Florida Association of Professional Process Servers objects to these proposed rule changes, our formal opinion and reasoning is attached.

Attachments 1

frcp 45 objection

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0264/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0264

Tracking Number

mll-h3j8-0i6w

Re: Opposition to Proposed Amendments to Rule 45 of the Federal Rules of Civil Procedure

To the Honorable Members of the Advisory Committee:

On behalf of the Florida Association of Professional Process Servers, I respectfully submit this industry opinion in strong opposition to the proposed amendments to Rule 45 of the Federal Rules of Civil Procedure that would permit service of subpoenas by mail.

As President of the Association, and on behalf of professional process servers throughout the State of Florida, I write to express serious concerns regarding the reliability, enforceability, and due-process implications of this proposal.

I. Lack of Verified Receipt and Accountability

Personal service provides direct confirmation that the subpoena was delivered to the intended individual. By contrast, service by mail offers no assurance that:

- The named witness actually received the subpoena;
- The intended person resides at the address to which it was mailed;
- The individual who signs for certified mail lives with or is authorized to accept service on behalf of the witness;
- The envelope was opened, reviewed, or understood by the intended recipient.

Mail-based delivery provides only proof of delivery to an address — not proof of service upon a person. There is no independent professional who can testify under oath that the subpoena was personally delivered to the witness. Without such testimony, courts will be placed in the untenable position of adjudicating contempt proceedings based on ambiguous or disputed mailing records.

Service of compulsory legal process must be visible and unequivocal. Presenting a subpoena face-to-face ensures the witness understands that compliance is legally required. Sending a subpoena in a sealed envelope does not ensure it will be opened in a timely manner — or at all. It may be mistaken for advertising or discarded as routine correspondence.

II. Due Process and Enforcement Concerns

The proposed amendment creates a substantial risk that defendants and witnesses will not receive proper notice of compulsory legal obligations. Subpoenas carry the force of the Court and may subject individuals to contempt sanctions. Due process requires reliable, verifiable notice.

If service is accomplished by mail:

- Motions to quash are likely to increase;
- Disputes regarding receipt will multiply;

- Courts may hesitate to enforce compliance absent clear proof of personal delivery;
- Contempt findings may become rare due to evidentiary uncertainty.

This will ultimately slow proceedings rather than streamline them.

III. Address Verification and Investigative Function

Professional process servers perform essential investigative functions that mail delivery cannot replicate. When a witness has moved, process servers locate updated addresses through lawful skip-tracing methods. They verify residency, confirm occupancy, and ensure that service is made upon the correct individual.

Mail service does none of these things. If correspondence is sent to an outdated address, the sender may never know whether the witness received notice. This shifts risk to litigants and courts, increasing delays and enforcement difficulties.

IV. Reliability of the United States Postal Service

While the United States Postal Service performs an important national function, it has long been recognized as a delivery system designed for general correspondence — not legal service of process requiring strict verification and timing precision.

A significant volume of mail is misdelivered daily. Certified mail signatures are frequently illegible and do not verify identity. Shared mail facilities, forwarding systems, and substitute signatories further dilute reliability.

Recent procedural changes by the United States Postal Service amplify these concerns. Effective December 24, 2025, the Postal Service added Section 608.11, “Postmarks and Postal Possession,” to the Domestic Mail Manual. This section defines qualifying postmarks and outlines how customers may obtain evidence of mailing dates. Although the Postal Service has stated these revisions are clarifications rather than operational changes, they highlight ongoing complexities and ambiguities in postmarking and proof-of-mailing practices.

In legal contexts where jurisdictional deadlines and timing requirements are strictly enforced, any uncertainty regarding postmark validity or date of possession introduces additional risk and dispute potential.

Mail was never designed to function as a sworn evidentiary mechanism.

V. Broader Systemic Impact

Amendments to the Federal Rules of Civil Procedure frequently influence state rulemaking and litigation practices. Many states model procedural rules on the federal framework. Even absent formal adoption, attorney practice habits often shift to align with federal standards.

The proposed amendment therefore risks eroding personal service standards nationwide. The long-term systemic consequence would be a gradual weakening of reliable service-of-process safeguards that protect procedural fairness.

VI. The Essential Role of the Independent Process Server

The professional process server serves as an independent, trained officer of the court. Process servers:

- Verify identity;
- Confirm residence;
- Present documents visibly and directly;
- Provide sworn affidavits of service;
- Testify when service is challenged;
- Ensure accountability in compulsory proceedings.

Without this independent verification, there is no reliable human witness to service. Accountability diminishes, disputes increase, and enforcement becomes uncertain.

Personal service is not merely traditional — it is fundamental to procedural fairness and due process.

Conclusion

For the foregoing reasons, the Florida Association of Professional Process Servers strongly urges the Committee to reject the proposed amendment permitting service of subpoenas by mail. The risks to due process, enforceability, and judicial efficiency outweigh any perceived administrative convenience.

Subpoenas compel action under threat of contempt. The method of service must be as serious and reliable as the authority it represents.

Respectfully submitted,

Chris Yeoman
President
Florida Association of Professional Process Servers

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www.fapps.org

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Comment from Waters, Deborah C.

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s)

Attachments 1

2026.02.13 FRCP Comments

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0265/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0265

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Comment Details | **Submitter Info**

Received Date

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Deborah C. Waters — **Attorney at Law**
Proctor in Admiralty

February 13, 2026

Committee on Rules of Practice and Procedure
Administrative Office of United States Courts
One Columbus Circle, NE
Washington, DC. 20544

Re: Federal Rules of Civil Procedure Rules 41(a), 45(b), 45(c), 26(a) and 81(c)
Comments on Proposed Amendments

Dear Honorable Committee Members:

The purpose of this letter is to comment on proposed amendments to Federal Rules of Civil Procedure 41(a), 45(b), 45(c), 26(a) and 81(c). I am an attorney in Virginia in private practice who for the past 38 years has represented almost exclusively plaintiffs. Most of my cases sound in admiralty and maritime law; thus, many of the cases are in various federal courts in jurisdictions across the country and witnesses reside in various parts of the country, if not the world. Accordingly, I have experience with each of the rules on which I comment. In some cases, current rules are interpreted differently by different jurisdictions. There is a need for clarity modernization and uniformity in each instance.

Rule 41(a) Dismissal. The proposed amendments to Rule 41(a) bring clarity to the rule and promote uniform application across jurisdictions. Given the current language, interpretation and application of the rule lacks uniformity. Modern day practice often requires multi-party, multi-claim pleadings in part due to the fact a plaintiff must plead all possible claims against potential defendants in order to preserve the plaintiff's rights. Often after service of complaint, a defendant agrees to stipulate to certain facts in exchange for dismissal of a specific claim in the complaint. Sometimes one of multiple defendants will settle. It is also common for a plaintiff to dismiss one of multiple defendants or claims after the evidence crystalizes during discovery. The proposed amendment recognizes the realities of litigation and allows for partial dismissal rather than requiring dismissal of an entire action. The proposed language encourages settlement negotiations between and among the parties and promotes judicial efficiency by decreasing the need for motion practice under Rule 15. This is a sensible amendment.

Further, the proposed amendment to Rule 41(a)(1)(A)(ii) streamlines the process for dismissal by requiring only defendants who have not been dismissed previously to sign the dismissal order. It is often difficult to get long-dismissed parties to sign orders that, frankly, have nothing to do with them, especially after their attorney's representation has ended. This is a good amendment.

Telephone: 757.446.1434 dwaters@waterslawva.com Facsimile: 757.446.1438

Rule 45(b) Service of Subpoenas: The proposed amendment to Rule 45 appropriately expands the means and methods of service of subpoenas while recognizing the necessity of due process and adequate notice for the individual on the receiving end of the subpoena. It acknowledges additional means of service are necessary because many buildings and communities have limited access entryways or gates due to security concerns, thereby impeding or preventing service of process via traditional means. In addition, service by commercial carrier provides an affordable and practical option to repeated, unsuccessful attempts by process servers; sometimes individuals intentionally avoid service. The commercial carrier option will assist in obtaining service on those who avoid it. I am a solo practitioner. Frankly, I will continue to employ the same local process server I normally rely upon but would definitely appreciate an alternative for particularly difficult situations. Lastly, the proposal requires a reasonable 14-day notice before the appearance required by the subpoena, a welcome addition to the rule added for the convenience of the individual who is the object of the subpoena. The proposed language is reasonable and modernizes procedures while providing due process for the receiver.

Rules 45(c) and 26(a): Proposed amendments to Rules 45(c) and 26(a) correct the Ninth Circuit's holding in *In Re Kirkland,* 75 F. 4th 1030 (9th Cir. 2023) It clearly states district courts have jurisdiction and authority to command witnesses nationwide to provide testimony provided the command does not exceed the distance already set out in the rule. The additional language proposed for Rule 26(a) underscores the fact that distant witnesses are subject to pre-trial disclosure mandates. As begun in the 2013 rule amendments, the proposed clarifying language acknowledges the technology of the day and modernizes the former rule, while at the same time preserving the protections against hardship for witnesses and parties. In my maritime practice, most fact witnesses live in other areas of the country. A clear rule providing the ability to compel remote testimony from witnesses outside of the physical jurisdiction is a valuable tool. It provides equal access to justice by allowing retrieval of evidence otherwise inaccessible, especially to individual plaintiffs. This is yet another amendment that clarifies and modernizes language in the Federal Rules and promotes uniformity in interpretation and application.

Rule 81(c): The Proposed amendment to Rule 81(c) resolves the ambiguity of the language of the existing rule by specifying more clearly the time in which a jury trial demand may be made following removal. Given the fact various jurisdictions interpret the language of the rule differently, adoption of the proposed language will promote a clearer understanding of the meaning of the rule and will also promote uniformity in its application.

For the reasons stated above, I respectfully request the Committee approve the amendments to Rules 41(a), 45(b), 45(c), 26(a) and 81(c) and recommend them to the Judicial Conference of the United States.

Respectfully,

Deborah C. Waters

Telephone: 757.446.1434 Email: dwaters@waterslawva.com Facsimile: 757.446.1438

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Comment from Yeoman, Chris

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

I object to the proposed rule changes and have attached a document with my reasons here.

Attachments 1

cy object to rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0266/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0266

Tracking Number
mll-i0bt-lsu5

Comment Details | **Submitter Info**

Received Date

Re: Opposition to Proposed Amendments to Rule 45 of the Federal Rules of Civil Procedure

To the Honorable Members of the Advisory Committee:

On behalf of the myself as a licensed process server for 35 years, I respectfully submit this industry opinion in strong opposition to the proposed amendments to Rule 45 of the Federal Rules of Civil Procedure that would permit service of subpoenas by mail.

I write to express serious concerns regarding the reliability, enforceability, and due-process implications of this proposal.

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Conclusion

For the foregoing reasons, I strongly urges the Committee to reject the proposed amendment permitting service of subpoenas by mail. The risks to due process, enforceability, and judicial efficiency outweigh any perceived administrative convenience.

Subpoenas compel action under threat of contempt. The method of service must be as serious and reliable as the authority it represents.

Respectfully submitted,

Chris Yeoman
Licensed Process Server
Broward and Miami-Dade counties, Florida

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Comment from Laurence, Daniel

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s)

Attachments 1

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Tracking Number
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Comment Details | **Submitter Info**

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February 13, 2026

)

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: ID USC-RULES-CV-2025-0004-0001
Proposed Amendments to Fed. R. Civ. P. 41(a), 45(b) and 45(c)
Public Comment

To Whom It May Concern:

I write in support of the proposed amendments to Rules 41(a), 45(b) and 45(c) of the Federal Rules of Civil Procedure.

My law firm is dedicated to serving plaintiffs only and frequently engaged in matters relevant to the subjects of this letter. My personal perspective is informed by my work as an attorney who has practiced in state and federal courts both as a civil defense and plaintiff tort trial lawyer over my now more than 35-year career. I am also a former federal district court law clerk and have served throughout my career on bar association committees and positions of leadership dedicated to improving professionalism, access to justice, legal process and substantive law.

Rule 41(a) allows plaintiffs to dismiss an entire action or one or more claims within it. Some circuits currently require dismissal of all claims. The rule would resolve a circuit split, creating greater procedural certainty in litigation, which is laudable in its own right, but also lowers costs and delayed and, in some cases, denied justice for litigants and the courts by avoiding refiling lawsuits in those circuits that require complete dismissal of all claims.

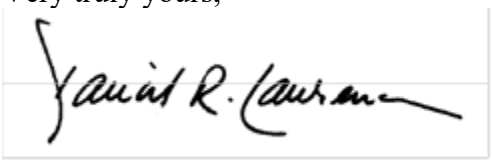
Rule 45(b) would broaden permissible manner of serving subpoenas on witnesses who play evasive games that merely increase delays and costs of achieving justice. The rule also has the secondary effect of multiplying litigation cost savings in some cases by reducing the need to rely on process servers to hunt down and/or "stake out" resistant witnesses; for example, those who hide behind corporate office guards and/or in gated communities. The process service industry members opposed to this change seek to protect a relatively small piece of an unnecessary financial monopoly on service of subpoenas. Process servers need not worry – attorneys and parties representing themselves *pro se* will still use those professional services in most cases. The rule

simply helps join evasive witnesses by allowing commercial delivery or a method approved by the court upon showing good cause. The purpose of a subpoena is to provide constitutional notice; not to start a game of cat and mouse.

Rule 45(c) would confirm that a federal district court has the authority to issue a subpoena to a witness located anywhere in the United States. In the modern era, the concern for protecting remote witnesses from unfair travel obligations to appear visually before counsel or a court has faded all but completely with the advent of internet video conferencing. It is important for witnesses to be able to appear remotely in certain situations and remote live or video-recorded testimony is generally preferable to a cold transcript.

Again, I urge the adoption of these laudable changes, each of which promotes more efficient and fair justice.

Very truly yours,



DANIEL R. LAURENCE

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Comment from Managing Attorneys & Clerks Association, Inc.

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Please see the attached letter from the Managing Attorneys & Clerks Association, Inc. commenting on proposed Rule 45.

Attachments 1

MACA comment on proposed Rule 45

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0268/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0268

Tracking Number
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MA
&CA
Managing
Attorneys & Clerks
Association, Inc.

Owen Wallace, *President*
Onika D. McLean, *Vice-President*
Jennifer S. Candelario, *Secretary*
Brendan Cyr, *Treasurer*

Peter McGowan, *Immediate Past President*

Timothy Beeken
John D. Bové
Ime Nelson
Jennifer Pordes
Bradley Rank
Bradley Small
Robert Westrom

Directors

February 13, 2026

Via Electronic Submission

Hon. John D. Bates, Chair
Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Judge Bates

We write on behalf of the Managing Attorneys and Clerks Association, Inc. ("MACA") in response to the Request for Comments on Proposed Amendment to Federal Rules and Forms of August 15, 2025, specifically with regards to the proposed amendments to Rule 45 of the Federal Rules of Civil Procedure regarding the service of subpoenas.

MACA is comprised of approximately 120 law firms with litigation practices (primarily large and mid-sized firms) and in-house law offices in the New York City area, as well as the New York State Attorney General's Office. Managing attorneys' and

managing clerks' positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of court rules and procedures, clerk's office operations, and the needs of attorneys and litigants. In particular, our members' attorneys litigate frequently in the U.S. District Courts, and as a result we are well acquainted with the Federal Rules of Civil Procedure generally, and in particular with subpoena practice under Rule 45.

We have two comments concerning the proposed amendment to Federal Rule 45(b)(1)(A). First, the Rules Committee should consider combining subsections (ii) and (iii) so that any personal service to a person of suitable age and discretion must be followed by an additional mailing. We would offer that the mailing must be made to the same address as the delivery within a short time afterwards (e.g. two calendar days). The additional mailing will further ensure that the intended target of the subpoena receives actual notice in timely fashion.

We recommend against adopting proposed subsection (iii) in its current form or otherwise authorizing service of subpoenas in the first instance solely via mail, even by certified or registered mail, or other type of mailing that requires a receipt acknowledgment. While in theory a return receipt should confirm receipt of the subpoena by the target, in practice this is seldom the case. Many large businesses have centralized mailrooms and in instances where a subpoena is served solely by US certified or registered mail, it may be signed for without knowledge or authorization, or simply not signed for and returned. Moreover, the return receipt, or the returned package if it is not signed for, can take weeks to reach the sender. These circumstances present pitfalls for either the sender who may later learn that the mailing was refused, or the recipient who was not timely notified.

Second, we urge the Committee to consider adding a new subsection (iii) to codify broadly applicable case law recognizing that service on an authorized agent complies with Rule 45. Personal service on a corporation via an officer, for example, can be logistically challenging because of corporate office security as well as remote working arrangements, for which reason Rule 4(h)(1)(B) authorizes service on an agent authorized by appointment or by law. Courts widely have upheld the validity of service of a subpoena on an agent of a witness corporation. *See, e.g.,* 9A Wright & Miller, *Federal Practice & Procedure* § 2454 at n. 8 (collecting cases). We submit that delivery to an individual's authorized agent is legally indistinct from delivery to a corporation's agent, as both are persons under the law with the legal capacity to appoint an agent. Similar to what Rule 4(h)(1)(B) requires and our proposal for subsection (ii), above, we would encourage the Committee also to consider codifying agent service with a requirement of mailing to the witness's dwelling or usual place of abode, or last known place of business.

Our proposed revisions are delineated in italics below:

Rule 45. Subpoena

(b) Service.

(1) Means; Notice Period; Fees.

(A) By Whom and How.

Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena *shall be made by one of the following methods:*

(i) delivering a copy to the named person personally;

(ii) leaving a copy at the person's dwelling or usual place of abode, *or actual place of business,* with someone of suitable age and discretion who resides *or is employed* there; *and also by* sending a copy to the address *where such service was made* by United States *first class* mail, or by commercial-carrier delivery *within two calendar days of such delivery*;

(iii) *delivering a copy to an agent authorized by appointment or by law to receive service of process, and also by sending a copy to the person's dwelling or usual place of abode, or actual place of business, by United States first class mail, or by commercial-carrier delivery within two calendar days of such delivery*; or

(iv) using another means that is authorized by the court for good cause and is reasonably calculated to give notice.

We are grateful for the opportunity to offer MACA's views on the proposed amendment of Rule 45. If we can elaborate further on our comments or assist the Committee in any way, please let us know.

Respectfully submitted,

s/Owen Wallace
MACA President
Managing Attorney
Cahill Gordon & Reindel LLP

s/Bradley Small
MACA Rules Committee Co-Chair
Managing Attorney
Vinson & Elkins LLP

s/H. Miriam Farber
MACA Rules Committee Member
Managing Attorney
Allen Overy Shearman Sterling US LLP

s/ *Richard LaRosa*
MACA Rules Committee Member
Director, Docketing & Court Services
Kobre & Kim

s/Timothy K. Beeken
MACA Rules Committee Co-Chair
Counsel & Managing Attorney
Debevoise & Plimpton LLP

s/Brendan Cyr
MACA Rules Committee Member
Managing Attorney, New York Office
Cleary Gottlieb Steen & Hamilton LLP

s/Kurt R. Vellek
MACA Rules Committee Member
Managing Clerk
Allen Overy Shearman Sterling US LLP

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Comment from Proof Technology, Inc.

Posted by the **United States Courts** on Feb 17, 2026

Comment

This comment opposes the proposed amendment to FRCP 45(b)(1) to the extent it would authorize service of subpoenas by mail or commercial carrier, which would increase uncertainty, disputes over receipt, and burdens on the court and subpoenaed non-parties.
See attached file.

Attachments 1

Comment- Proposed Amendment FRCP 45(b)(1)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0269/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0269

Tracking Number
mlm-01xo-xd13

Submitted via Regulations.gov

February 13, 2026

Re: Opposition to Proposed Amendment to Fed. R. Civ. P. 45(b)(1)

Dear Advisory Committee Staff:

Proof respectfully submits this comment opposing the proposed amendment to Federal Rule of Civil Procedure 45(b)(1) to the extent it would permit service of subpoenas by mail or commercial carrier.

Proof is a legal services and technology company that supports lawful, reliable delivery of legal process and related litigation workflows. We understand the importance of ensuring actual delivery of legal documents and are familiar with the practical issues that arise when delivery is indirect, routed through intermediaries, or recorded with ambiguous "receipt" data. For the reasons below, expanding Rule 45(b)(1) to allow mail/commercial-carrier service would undermine clarity, increase collateral litigation, and create avoidable fairness problems, especially for non-parties, who are the primary recipients of Rule 45 subpoenas.

Importantly, the Committee Note on the proposed amendment states that Rule 45(b)(1) "is amended to clarify the means of serving a subpoena," and further observes that service "usually does not present problems—particularly with regard to deposition subpoenas..." That assessment is correct from Proof's experience: subpoena service is generally workable under the current "delivering a copy to the named person" framework. Because the Committee Note itself confirms the absence of a widespread practical problem, there is no demonstrated need to expand Rule 45(b)(1) to authorize service by mail or commercial carrier. Any desired clarification can be achieved more narrowly and safely by defining what "delivering" means, without adding new service methods like mail and commercial-carrier service that invite disputes over actual receipt, misdelivery, or receipt by third parties.

1. The proposal trades a clear, administrable standard for one that will be litigated

Current Rule 45(b)(1) is anchored on "delivering a copy to the named person." Whatever disagreements exist at the margins, the touchstone is straightforward: the subpoena must be delivered in a way that reliably ties service to the subpoenaed person. By contrast, the proposed mail/commercial-carrier option requires "confirmation of actual receipt," without clearly requiring proof that the subpoena was received by the named individual (rather than by a roommate, receptionist, building staff, or mailroom). In practice, the question in contested cases will shift from whether the subpoena was delivered to the subpoenaed person to what constitutes "actual receipt" and what evidence suffices, thereby inviting inconsistent rulings and increased motion practice.

Even supporters of broadening service methods have acknowledged that “actual receipt” is confusing in this context and debated whether it means that the named person must sign for the delivery. (See written Statement of Navan Ward Jr. submitted for the hearing on proposed amendments).

2. Expanded mail/carrier service will increase disputes, delay compliance, and burden courts and non-parties

Rule 45 subpoenas frequently implicate urgent timelines and sensitive burdens on non-parties. Allowing mail/commercial-carrier service will predictably generate more motions to quash based on defective service, motions to compel based on contested “receipt,” and satellite litigation about the adequacy of carrier records. This additional litigation will delay compliance, increase costs for parties and non-parties, and impose avoidable burdens on courts. It will also shift the burden onto subpoenaed non-parties who may be forced to investigate ambiguous delivery records, prove that they did not personally receive the subpoena, or incur legal expenses simply to establish that service was ineffective.

3. Process servers offer the reliability and accountability mail and carriers lack

Professional process servers are trained to effect service in a manner that reliably connects delivery to the named person and creates a clear, defensible record of service. Unlike mail or commercial carriers, whose systems are designed for package logistics rather than compulsory legal process, process servers can confirm identity where appropriate, document the manner and circumstances of delivery, and provide sworn proof of service that is meaningful to courts. Allowing service by mail or carrier would substitute this established reliability with tracking entries or signatures that may reflect receipt by a roommate, building staff, or no signature at all, therefore increasing uncertainty about whether the subpoenaed person actually received notice. That uncertainty undermines the core due-process function of service: ensuring the right person is notified that a federal court has commanded compliance under threat of contempt.

4. Federal expansion may encourage inconsistent state adoption and more service disputes

Changes to the Federal Rules often influence state rulemaking and court practice. Many states look to the Federal Rules of Civil Procedure as a model, and an amendment to Rule 45(b)(1) could prompt parallel changes to state subpoena service provisions. If states adopt similar mail or commercial-carrier service options, potentially with differing definitions of “delivery,” “actual receipt,” or acceptable confirmation, the result would be greater uncertainty and inconsistency across jurisdictions. That would increase the risk of inadvertent noncompliance by non-parties, complicate multi-jurisdictional litigation,

and generate additional disputes over service that a clear, uniform personal-delivery standard is designed to avoid.

5. If the Committee believes modernization is needed, there are narrower, safer alternatives

Proof recognizes that parties sometimes face barriers to access or evasion (e.g., gated communities, secured workplaces). If the Committee believes additional flexibility is warranted, it should be limited to the proposed "usual place of abode" method, and in rare cases, court-authorized alternative service on a showing of good cause and under safeguards reasonably calculated to provide notice, rather than creating a default authorization for mail/commercial-carrier service. But the most direct and practical approach is to clarify what "delivering" means, without introducing alternative methods such as service by mail.

Conclusion

For the foregoing reasons, Proof respectfully requests that the Committee revise the proposed amendment to Rule 45(b)(1) to eliminate the provision authorizing service by mail or commercial carrier. The proposed expansion is not justified by an identified systemic need and would not achieve desired outcomes. The Committee should instead clarify the meaning of "delivering" without adding alternative methods that will increase disputes, costs, and unfairness for non-parties.

Respectfully submitted,

Eric Voogt, Esq.
Founder and Executive Chair
Proof Technology

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Comment from Drepaul, Baldeo C.

Posted by the **United States Courts** on Feb 17, 2026

Comment

Dated: February 14th,2026
Dear Members of the Committee,
Re: Public Comment Opposing Proposed Amendments to
Federal Rule of Civil Procedure 45
PROCESS SERVER IN OPPOSITION.
Thank you for open public comment on this matter. I want to share with you a few things about FRCP 45.
I am a Licensed Process server in the State of New York, it is my highest priority to ensure that I follow all federal, state and local laws pursuant to serving legal documents. As a server I built my career over 25 years ago. I witnessed firsthand that my employer who dedicated so much time to build our office with full and part time staff to accommodate our clients needs across the United States.
In my opposition to FRCP 45, if the committee is to approve mail service this will be detrimental to the current law right now.
. This will backlog in the judicial system.
. The USPS already faces with untimely deliveries, not to mention my own personal mail get to other people houses, even do I do sign up for inform delivery there are many times when I will tell the mail delivery person that I was notified about my mail, he will then said that " the systems is not working properly " with attitude.
. Other carriers including FedEx with tracking information sometimes never deliver on time.
. One part concerns me so much, mail to the last known address, people do move around and not everyone comply to change their address. If we were to give someone 14 days notice and rely on just tracking information that the package delivered, that doesn't mean our justice system can make a final decision that the person never shows up for his appearance.
. This will cause lots of confusion and will lead to injustice for the other person who needs to make appearances or produce documents timely for litigation to move forward.
I strongly recommend that you reconsider this proposal. How much economic impact it will have on the Process Server Agencies and individuals process servers, as everyone who works very hard and plays a

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vital role in the Judicial System for due process.
I am extremely proud of myself that I have built my way to the middle class, this gives me a great opportunity to work hard and serve my community.
Finally there are many times when I served documents people are confused and scared why they are getting these types of documents, I will take a moment to explain why they are being served and who they should contact or seek help from an attorney, much less for delivery to place outside their home without any protection of their mail being secured, they moved, on vacation, in the hospital, or nursing homes. All these factors should be considered by the committee before taking any action for personal service.
I strongly recommend that personal service is recommended and save jobs.

Sincerely,
Baldeo C. Drepaul
NYC License Process Server.

Comment ID
USC-RULES-CV-2025-0004-0270

Tracking Number
mln-gtu3-2g9v

Comment Details | **Submitter Info**

Received Date
Feb 15, 2026

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Comment from Dark Knight Private Investigation

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Attachments 1

Committee Rule 45 Comments DKPI

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Comment ID
USC-RULES-CV-2025-0004-0271

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mln-spa6-lov6

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DARK KNIGHT PRIVATE INVESTIGATION, LLC

Dark Knight Private Investigation

Lindsey Paison

Owner/Lead Investigator

February 15, 2026

To: Committee on Rules of Practice and Procedure

Administrative Office of the United States Courts

Re: Public Comment Submission on Proposed Amendments to FRCP Rule 45

Dear Committee Members,

I submit this public comment to your committee on behalf of my business, Dark Knight Private Investigation, which operates in Colorado. I am opposed to the proposed amendments allowing service of process to be made via USPS, and other commercial carriers, as these changes allow for heightened risks to intended recipients of service, and the market for private process servers.

As a background into my private investigation business, I do a large volume of process service, for cases in Colorado district court, county courts, municipal courts, and Colorado federal court. I have been a process server for 14 years and a private investigator for 5 years, and I specialize in locating and serving hard to locate Defendants and difficult process services where Defendants are avoiding service. I take my role as a process server very seriously, as I believe providing recipients with their right to due process. I have spent considerable time during my career familiarizing myself with the rules for civil procedure for the State of Colorado on who and how to serve documents, as well as deadlines and court requirements for service. Through my work, I take pride in completing services according to the rules and treating recipients with respect and professionalism, while providing my client with successful results. Serving process does not simply end with a knock at the door or handing documents off to anyone in a residence. Process service requires you to know the rules of service, taking care to get the intended recipient served by being able to identify the recipient when you are serving them. Often, process servers may run into issues getting someone served, and servers may be asked to do follow up work to find out where a recipient may have moved to, or when they may be home. It can involve speaking to

neighbors, co-workers, employers, making multiple attempts at various times, and taking diligent notes and photographic/video evidence. Lastly, process servers must provide clients and the court with affidavits or declarations attesting to the details of the service, and this includes times and dates of when the documents were served, as well as the manner in which it was served and to whom. Process servers are expected to be thorough, diligent, and honest in their work.

Service of process serves a particularly vital role in our judicial system. It is essentially what represents the beginning of many legal endeavors, and it is crucial to ensuring that all parties in a legal matter are properly informed and have received their due process, which every individual is guaranteed under the Constitution of the United States of America. This fundamental right could be gutted if you allow for non-personal methods of service or service by individuals who do not specialize in this area of work.

By allowing United States Postal Service carriers to deliver service of process documents to recipients, multiple issues are created that could have far reaching effects, of which I can present several examples.

First, it is common that process servers and investigators encounter situations where the address provided for service is not valid because the recipient may have moved, the home could be vacant, or the address may just be completely inaccurate and the intended recipient has never resided there. Other commons issues private process servers face is when an individual answers the door for the carrier but is not the intended recipient of the documents. Often, professional process servers must be able to determine the relationship between someone at the door and the recipient or be able to gather information from individuals at the door to determine identity, or location information regarding the intended recipient. The proposed changes raise many questions, such as: How are postal carriers or other carriers going to be equipped or instructed to proceed if either of the above scenarios were to occur? Will carriers be instructed to gather information from the resident at an address to find out where the recipient may have moved to or how long they have been gone? Can we guarantee even if carriers are instructed to gather information that they will? Can we also guarantee that postal carriers may not just leave the package at the door or the mailbox of a vacant home and proceed with their route? Will carriers be expected to gather information and determine the relationship between the intended recipient and someone who opens the door who isn't the intended recipient? Additionally, what will happen if the Defendant in a case files a motion to quash the service because they did not receive the papers? Typically, a professional process server supplies an affidavit or declaration after the completion of a process service and records the details of the service and is available to testify in open court as to the contents of that affidavit to provide proof the service occurred. Are carriers going to be expected to provide affidavits or declarations once they do a process service to attest that the individual was served in a particular manner? How will law firms who use this method, or Defendants in matters, know the name and information of the carrier who claimed to have delivered the documents to have them testify in court as to the service itself if a motion to quash is filed?

Other issues that often present themselves are when individuals have mail forwarding options through postal carriers or are using a PO Box to get their mail. Similarly, large apartment

complexes that use mail rooms to put packages in also would not allow for personal service, or for a carrier to even make an attempt to see and speak with a resident face to face to determine if an address is valid or not. If a carrier left service of process documents at an apartment mail room assuming the address was valid and it was not, that recipient will never receive their legal documents, and could suffer punitive consequences, or damages, monetary or non-monetary, for not complying with instructions or deadlines in the documents. More frightening is apartment complexes that have unsecured mail/package delivery rooms, where any member of the public could potentially have access to personal identifying information, or someone's legal information if left there.

Documents that are being served also commonly have time deadlines that must be met by the recipient, or the recipient may face consequences that are punitive in nature or suffer other damages. USPS and other carriers often have substantial amounts of mail or materials to deliver, are often understaffed, and cannot guarantee despite their best efforts when anything can be delivered. There are times where I have personally had to wait over 2 weeks for a letter to delivered to someone I sent to, from Denver to another area of Denver. This simply cannot happen when serving legal documents, as timely service and notice of deadlines is imperative.

I have also personally seen many times where mail carriers have disregarded notes from senders asking to receive certified, signed mail confirmation upon delivery back, and mail carriers have stuck it in the mailbox and left without even attempting to reach the resident and obtain a signature. This exacerbates the chances that even if carriers are supposed to get signatures of service documents they deliver, they may not and this could result in bad services.

All of these reasons will lead to an overwhelming amount of motions to quash service, that will bog down our judicial system, cost more money for plaintiff's to defend, and create a burden that could slow down our courts and prevent court cases from proceeding or end cases for plaintiff's before they have even begun. While modernizing may be beneficial in some respects, this is simply not an area where modernizing is worth the risks associated.

A lot, if not all, of these issues are non-existent when personal, in hand service of legal documents by trained professionals who know the Rules for Civil Procedure is required and the standard practice.

Another issue, which I briefly touched on above, is burdening what most would agree is an already burdened and flawed independent federal agency. In the last 10-15 years, the USPS has continuously had issues with staffing and providing sufficient mail delivery to resident in the U.S. in a timely manner. Often, people are waiting for mail delivery for weeks or not receiving mail at all. The "presumption of regularity" we used to be able to rely on for USPS is not that anymore. Mail can be lost, delivered to the wrong address, and carriers may not follow the rules as far as obtaining a signature and only leaving with a resident and just leaving packages or mail in mailboxes. We have also seen a recent uptick in instances where postal carriers have been robbed and assaulted, mail stolen and drivers held at gunpoint. Americans often do not feel comfortable sending checks in the mail for fear of theft, or the mail being lost, which does not instill much faith that legal documents with sensitive information would not also be at risk.

Safety for those delivering service of process remains a huge issue in our industry. It is quite common in situations where documents are related to divorces, child custody, evictions or restraining orders that parties involved are highly emotional. Process servers are often blamed and caught in the middle because they are at the forefront of delivering what is considered "bad news" to the subject. I can attest personally that I have been confronted on numerous occasions with verbal slurs, extremely hostile attitudes and physically threatened. There have been incidents where process servers have been severely assaulted, injured, and even killed while serving papers. Professional process servers have more experience in these kinds of dangerous situations and can take measures to physically protect themselves if they find themselves in a dangerous situation. Process servers also through experience have the capability to verbally deescalate what could otherwise turn into a dangerous situation. It is not fair or reasonable to put that kind of responsibility onto a parcel carrier.

Lastly, these amendments have the potential to affect the livelihood and overall revenue for thousands of process servers and investigators across the country. Any of us who serve papers for federal court cases will be affected if these changes are made as it will make in hand service no longer relevant. This also has the potential to spill over if other states adopt this model at the state level to mirror the federal rule change. While this is not a main point of consideration, it is a consideration that should be taken seriously as the financial effects would be disastrous for many people who work in this industry.

Summarily, changes to Rule 45 have the potential to destroy the foundation of due process for subjects involved in court cases, slow down our judicial system, create unnecessary safety risks, and make the role of process servers irrelevant. For these reasons, I would urge the committee to withdraw the amendments as they are currently drafted and preserve personal, in hand service as the principal method of service unless otherwise ordered by the court.

Thank you for your time and consideration in this matter.

Respectfully,

Lindsey E. Paison

Lindsey E. Paison
Owner/Lead Investigator
Dark Knight Private Investigation

DARK KNIGHT PRIVATE INVESTIGATION, LLC
1685 S. Colorado Blvd., Unit S-172 Denver, Colorado 80222
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Comment from Bounds , Raymond

Posted by the **United States Courts** on Feb 17, 2026

Comment

I'm a prosses server in the Florida 9th circuit. I know the value of reliable service of documents in matters of due prosses. It's a cornerstone of procedural fairness. The effects of proposed amendment to FRCP rule 45 will likely increase disputes, non-compliance, and motions to quash. This could be costly for everyone. I hope amendment will be reconsidered with thought of the effective and necessary job that prosses servers provide. Thank you for a chance to express my views on this situation.

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USC-RULES-CV-2025-0004-0272

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mln-z0ww-kckc

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Comment from Kroft, Wyman

Posted by the **United States Courts** on Feb 17, 2026

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Attachments 1

DLS Public Comment Submission on Proposed Amendments to FRCP Rule 45-3 Signed

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Comment ID
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Tracking Number
mlo-3156-au3p

Comment Details | **Submitter Info**

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Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Name / Organization]*
Date: *[Insert Date]*

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service WKDW VDIHJXDUGV OLWLJDQWV¶ ULJKWV QDWLRQZLGH

, UHVSHFWIXOO\ DVN WKH &RPPLWWHH WR JLYH IXOO FRQV
V\VWHPLF ULVNV LGHQWLILHG DERYH DQG WR HQJDJH IXUW
DQ\ DPHQGPHQWV WR 5XOH

7KDQN \RX IRU \RXU DWWHQWLRQ DQG IRU WKH RSSRUWXQL

6LQFHUHO\\
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Comment from Citizens for Responsibility and Ethics in Washington

Posted by the **United States Courts** on Feb 17, 2026

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Comment

February 16, 2026

Submitted via regulations.gov

The Honorable John D. Bates
Chair, Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Proposed Amendments to Rule 7.1 of the Federal Rules of Civil Procedure

Dear Judge Bates:

We write to express our support for the proposed amendments to Rule 7.1 of the Federal Rules of Civil Procedure, which would facilitate timely and informed judicial recusal decisions under 28 U.S.C. § 455 and the Code of Conduct for United States Judges. We thank the Committee for recommending these additional disclosures, which will assist judges in maintaining the high standards of conduct necessary to uphold the integrity of and public trust in the federal courts.

Among other requirements, in determining whether to recuse from a case a judge must consider not only their actual financial interests, but also whether there is a threat to the perception of their impartiality. Section 455 requires disqualification in either instance: That is, when a judge knows they or a family member have a financial interest in a party—"however small"—and also when the judge's impartiality "might reasonably be questioned." These requirements help ensure that judges, who serve an incredibly important and powerful role in our justice system, both appear to be and remain impartial.

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While under section 455(c) judges have a responsibility to keep informed about their own financial interests, a judge's ability to fully consider and comply with their statutory and ethical requirements also depends on adequate disclosures from the parties before them. It is also important that judges have timely access to this information. If, for example, a judge discovers or a party reveals a potential financial conflict after the judge and the parties already have expended substantial time and effort on the proceedings, the late disclosure may lead to wasted resources and attempted judge shopping by parties "seeking to avoid the consequences of [the judge's] expected adverse decision." Even if a judge ultimately determines that they need not recuse from the case, late disclosure may lead to litigation delays or financial costs to a judge who elects to divest.

The proposed changes help prevent these disruptions by requiring additional information in Rule 7.1(a) disclosure statements, which are filed with a party's first appearance and promptly supplemented as needed after. Specifically, the proposed amendments: (1) replace references to "a corporate party" with the broader term "business organizations"; and (2) require disclosure of "a parent business organization" and "any publicly held business organization that directly or indirectly owns 10% or more of" a party.

The first change ensures that the rule covers commercial entities such as "limited liability companies" and "Master Partnerships," which have the potential to create financial conflicts for judges but may not be defined as "corporations" under state law. The second change, which provides that both direct and indirect ownership of at least 10% of a party require disclosure, clarifies that the disclosure statement also applies to corporate "grandparents" or "great grandparents." This change provides district judges with timely information that may affect their disqualification decisions and aligns district court disclosure rules with the longstanding practice of the courts of appeals.

Overall, these amendments help judges determine at the outset of a case whether they or a family member have a "financial interest in the subject matter in controversy or in a party to the proceeding," "any other interest that could be substantially affected by the outcome of the proceeding," or otherwise must recuse. We support these changes, which, in addition to facilitating judges' timely and informed recusal determinations, will benefit litigants by reducing the risk of later disruptions in ongoing litigation.

Thank you for your work on these important issues and for considering our views.

Respectfully submitted,

Debra Perlin
Vice President for Policy
Citizens for Responsibility and Ethics in Washington

Alex Aronson
Executive Director
Court Accountability

Give Feedback

Attachments 1

Public Submission in Support of Rule 7.1 Amendments

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0274/attachment_1.pdf)

Comment ID

USC-RULES-CV-2025-0004-0274

Tracking Number

mlp-ahxc-ew0q

Comment Details | **Submitter Info**

Received Date

Feb 16, 2026

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February 16, 2026

Submitted via regulations.gov

The Honorable John D. Bates
Chair, Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Proposed Amendments to Rule 7.1 of the Federal Rules of Civil Procedure

Dear Judge Bates:

We write to express our support for the proposed amendments to Rule 7.1 of the Federal Rules of Civil Procedure, which would facilitate timely and informed judicial recusal decisions under 28 U.S.C. § 455 and the Code of Conduct for United States Judges. We thank the Committee for recommending these additional disclosures, which will assist judges in maintaining the high standards of conduct necessary to uphold the integrity of and public trust in the federal courts.

Among other requirements, in determining whether to recuse from a case a judge must consider not only their actual financial interests, but also whether there is a threat to the perception of their impartiality. Section 455 requires disqualification in either instance: That is, when a judge knows they or a family member have a financial interest in a party—"however small"[1]—and also when the judge's impartiality "might reasonably be questioned."[2] These requirements help ensure that judges, who serve an incredibly important and powerful role in our justice system, both appear to be and remain impartial.

While under section 455(c) judges have a responsibility to keep informed about their own financial interests, a judge's ability to fully consider and comply with their statutory and ethical requirements also depends on adequate disclosures from the parties before them.[3] It is also important that judges have timely access to this information. If, for example, a judge discovers or a party reveals a potential financial conflict after the judge and the parties already have expended substantial time and effort on the proceedings, the late disclosure may lead to wasted resources[4] and attempted judge shopping by parties "seeking to avoid the consequences of [the judge's] expected adverse decision."[5] Even if a judge ultimately determines that they need not recuse

[1] 28 U.S.C. §§ 455(b)(4), (d)(4); *Guide to Judiciary Policy, Vol. 2A, Ch. 2: Code of Conduct for United States Judges*, Canon 3.C(1)(c) (last revised Mar. 12, 2019), https://www.uscourts.gov/file/25752/download [hereinafter *Code of Conduct*].
[2] 28 U.S.C. § 455(a); *Code of Conduct*, Canon 3.C.
[3] 28 U.S.C. § 455(c); *Code of Conduct*, Canon 3.C(2).
[4] *See Shell Oil Co. v. United States*, 672 F.3d 1283, 1286, 1294 (Fed. Cir. 2012) (vacating judgment under § 455(b)(4) six years after the lawsuit was filed because of a financial conflict the district judge discovered when entering final judgment).
[5] *Perpich v. Cleveland Cliffs Iron Co.*, 927 F. Supp. 226, 233 (E.D. Mich. 1996) (citation omitted); *see also Donoff v. Delta Air Lines, Inc.*, No. 18-81258, 2020 WL 3268500, at *5 (S.D. Fla. Feb. 4, 2020) ("[T]he timing of filing the expedited recusal motion just after the denial of class certification and during briefing on summary judgment, suggests forum shopping by a discontented litigant."); *Union Carbide Corp. v. U.S. Cutting Serv., Inc.*, 782 F.2d 710,

from the case, late disclosure may lead to litigation delays[6] or financial costs to a judge who elects to divest.[7]

The proposed changes help prevent these disruptions by requiring additional information in Rule 7.1(a) disclosure statements, which are filed with a party's first appearance and promptly supplemented as needed after.[8] Specifically, the proposed amendments: (1) replace references to "a corporate party" with the broader term "business organizations"; and (2) require disclosure of "a parent business organization" and "any publicly held business organization that directly or indirectly owns 10% or more of" a party.[9]

The first change ensures that the rule covers commercial entities such as "limited liability companies" and "Master Partnerships," which have the potential to create financial conflicts for judges but may not be defined as "corporations" under state law.[10] The second change, which provides that both direct and indirect ownership of at least 10% of a party require disclosure, clarifies that the disclosure statement also applies to corporate "grandparents" or "great grandparents."[11] This change provides district judges with timely information that may affect their disqualification decisions and aligns district court disclosure rules with the longstanding practice of the courts of appeals.[12]

Overall, these amendments help judges determine at the outset of a case whether they or a family member have a "financial interest in the subject matter in controversy or in a party to the proceeding," "any other interest that could be substantially affected by the outcome of the proceeding," or otherwise must recuse.[13] We support these changes, which, in addition to facilitating judges' timely and informed recusal determinations, will benefit litigants by reducing the risk of later disruptions in ongoing litigation.

Thank you for your work on these important issues and for considering our views.

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716 (7th Cir. 1986) (explaining that the lawyer moved to recuse the judge when the client "evidently was distressed by some rulings made by" the judge).

[6] *Shell Oil Co. v. United States*, 108 Fed. Cl. 422, 425 (2013) (after judge did not recuse and court of appeals required disqualification on remand, reassigned judge ruled on summary judgment motions 10 months after remand and four years after the now-recused judge initially entered final judgment).

[7] 28 U.S.C. § 455(f); *Union Carbide Corp.*, 782 F.2d at 718 (Flaum, J., dissenting in part) (explaining that such costs may include brokerage fees, tax consequences, and the "relative costs, derived by comparing actual costs to the value of the asset and to the financial worth of the judge"); *Perpich*, 927 F. Supp. at 234 (terminating membership in family's limited partnership).

[8] Fed. R. Civ. P. 7.1(b).

[9] Comm. on Rules of Practice and Procedure of the Judicial Conf. of the U.S., *Preliminary Draft: Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence, Excerpt from the May 15, 2025 Report of the Advisory Committee on Civil Rules* 43 (Aug. 2025), https://www.uscourts.gov/sites/default/files/document/preliminary-draft-of-proposed-amendments-to-federal-rules_august2025.pdf.

[10] *Id.* at 43.

[11] *Id.* at 41.

[12] *Id.* at 41–43; *see* Fed. R. App. P. 26.1 advisory committee notes (explaining that the corporate disclosure statement rule "requires disclosure of all of a party's parent corporations meaning grandparent and great grandparent corporations as well").

[13] 28 U.S.C. §§ 455(a), (b)(4); *Code of Conduct* Canon 2, 3.C(1)(c).

Respectfully submitted,

Debra Perlin
Vice President for Policy
Citizens for Responsibility and Ethics in Washington

Alex Aronson
Executive Director
Court Accountability

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Comment from BLACKHAWK SPECIAL SERVICES, INC.

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

Public Comment Submission on Proposed
Amendments to FRCP Rule 45
Submitted by: Evan Balash, CPS #PBC101
Date: 16FEB20
To: Committee on Rules of Practice and Procedure Administrative Office of the United States Courts
Re: Public Comment Opposing Proposed Amendments to
Federal Rule of Civil Procedure 45
Dear Members of the Committee,

Please see the attached letter regarding this issue.

Attachments 1

DLS_Public Comments_02.16.2026

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0275/attachment_1.pdf)

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Comment ID

USC-RULES-CV-2025-0004-0275

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Evan Balash, CPS PBC101
Date: 16FEB2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of BLACKHAWK SPECIAL SERVICES, INC., as it Director to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The "Second Wave" — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to "harmonize" their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server's role in the justice system**, weakening procedural safeguards that protect litigants' rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

EVAN BALASH, CPS #PBC101

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Comment from TriCounty Private Process Service, LLC

Posted by the **United States Courts** on Feb 17, 2026

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Attachments 1

DLS_Public_Comment_Submission_on_Proposed_Amendments_to_FRCP_Rule_45_Fillable

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0276/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0276

Tracking Number
mlp-csb9-zru1

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: REBECCA LUNA
Date: 01/16/26

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

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- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

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NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

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- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

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Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

REBECCA LUNA

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Comment from Anonymous

Posted by the **United States Courts** on Feb 17, 2026

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Comment

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Attachments 1

Public Comment to Amendment FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0277

Tracking Number
mlp-e18r-smgp

Comment Details | **Submitter Info**

Received Date

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: Lisa Picard
Date: February 16, 2026

To:
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

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A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,
Lisa Picard
Court Support Inc.
516-742-7455
lisa@courtsupportinc.com

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Comment from Linebaugh, Daniel

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s) re: FRCP 41(a), 45 (b) and 45(c)

Attachments 1

2026.02.16 - Proposed Amendments Comment

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Comment ID
USC-RULES-CV-2025-0004-0278

Tracking Number
mlp-e9zc-i60w

Comment Details | Submitter Info

LINEBAUGH DORITY & ASSOCIATES, LLP

Dan Linebaugh*Ŧ
Michael Dority
Richard Hill*

* Board Certified, Truck Accident Law
National Board of Trial Advocacy

* Board Certified, Personal Injury Trial Law
Texas Board of Legal Specialization

Ŧ Board Certified, Civil Trial Law
National Board of Trial Advocacy

February 16, 2026

RE: Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure & Proposed Amendments to the Federal Rules of Evidence

To whom it may concern,

As a practicing attorney I support the proposed amendments to FRCP 41(a), 45 (b) and 45 (c). These amendments will help streamline the litigation process. I particularly support the proposed amendments to FRCP 45 (b) and 45(c) to reduce litigation costs. In Texas, there has been great success with remote jury trials and appearances by witnesses instead of making witnesses travel great distances to provide short but important fact-based testimony. The amendments to 45(c) will ensure that witnesses can appear remotely when travel to court is unreasonable or impossible.
The amendments to 45(b) provide necessary alternatives to ensure that persons evading service can be more easily served. The use of commercial carriers for service would be especially helpful for serving business parties.

Accordingly, please note my support for the proposed amendments to FRCP 41(a), 45 (b) and 45(c) and do everything within your power to ensure their passage.

On the other hand, I have great concerns as to the proposed amendment to FRE 707. Although the concept is good, the draft still needs work to bring about better clarity and ensure that routinely admitted evidence, such as trucking logs, which are an essential piece of evidence in the cases that I bring on behalf of my clients, are not subjected to unnecessary gatekeeping. Accordingly, I would request that this proposed amendment be tabled until the language has better clarity and focuses on truly AI generated evidence.

Should you wish to discuss this in greater detail, please feel free to contact me at the phone or address shown on my letterhead. Thank you for your cooperation and assistance

Very truly yours,

LINEBAUGH DORITY & ASSOCIATES, LLP



DANIEL B. LINEBAUGH

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PUBLIC SUBMISSION

Comment from DOMNICK, SEAN

Posted by the **United States Courts** on Feb 17, 2026

Comment

I write in support of the amendments to FRCP 41(a), 45(b) and 45(c). In this day and age it is far too easy to avoid service of process. Giving flexibility that allows for reasonable alternative means of service is an important step in fixing this problem. Using modern technology and other reliable ways of serving people will reduce delays in moving cases forward and will reduce gamesmanship for those who are trying to avoid service. Similarly, in this day and age of Zoom and with the expense and inconvenience of traveling for many witnesses, restoring nationwide subpoena authority and allowing for live testimony is important. it will reduce the costs of litigation, it will allow for witnesses to be inconvenienced as little as possible and will allow for juries and judges to evaluate witnesses in a live manner. Finally, Rule 41(a) would resolve the current split and allow for dismissal of one or more claims in an action. Allowing for certain counts or claims to be dismissed again will streamline the process, avoid the need for unnecessary pleading battles and make it easier to have clarity of pleadings. i am in support of all of the proposed amendments and hope they are adopted.

Give Feedback

Comment ID
USC-RULES-CV-2025-0004-0279

Tracking Number
mlp-fkic-6m86

Comment Details | **Submitter Info**

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PUBLIC SUBMISSION

Comment from Podell, Jacob

Posted by the **United States Courts** on Feb 17, 2026

Comment

I am a plaintiff's attorney and writing in my personal capacity in support of the proposed amendments to FRCP 41(a), 45(b), and 45(c).

FRCP 41(a): This amendment would add more flexibility to cases by allowing for dismissal of only certain claims, rather than the the whole action. The amendment would also reduce procedural hurdles by not requiring the signatures of only the parties who remain in the case. This flexibility will help narrow issues, reduce motion practice, and otherwise streamline litigation.

FRCP 45(b): Increasing the ways to serve a subpoena increases the availability of testimony which in turn increases courts making decisions with a complete record. The comments against this rule from process servers are economically driven, rather than being considered with just or efficient outcomes. The alternative methods for serving subpoenas are reasonably ways to ensure the recipient is notified of the subpoena and are used elsewhere in the Federal Rules (e.g., Rule 4) and by States without issue. Even then, using a process server will still be the most convenient method in most cases, as borne out by jurisdictions that allow alternative service methods.

FRCP 45(c): This amendment would correct the Ninth Circuit's decision in In Re Kirkland and restore nationwide subpoena authority. It is important for witnesses to be able to appear remotely in certain situations and remote live testimony is preferable to stale deposition testimony.

Give Feedback

Comment ID

USC-RULES-CV-2025-0004-0280

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PUBLIC SUBMISSION

Comment from Tolley, George

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s) pertaining to proposed amendments to Fed. R. Civ. P. 41 and 45.
Thank you for your anticipated courtesy and indulgence.

Attachments 2

FRCP Comment Re Voluntary Dismissal

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0281/attachment_1.pdf)

FRCP Comment Re Subpoena Procedure

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0281/attachment_2.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0281

DUGAN
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& KOHLER LLC
Finding Answers.
Demanding Justice.

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: **Fed. R. Civ. P. 41 – Voluntary Dismissals**

Members of the Committee on Rules of Practice and Procedure:

Thank you for allowing this opportunity to provide comments concerning the proposed amendments to Fed. R. Civ. P. 41 concerning voluntary dismissals.

I write in SUPPORT of the proposed amendment to Rule 41, which would facilitate the voluntary dismissal by agreement of one or more claims in litigation, as opposed to the entire action.

I graduated from New York University School of Law in 1991. My office is located in Maryland. I have been a plaintiff-side practitioner for more than three decades. My practice focuses primarily on medical negligence litigation and trial work, on behalf of injured patients and their families.

In Maryland, medical negligence litigation is governed by the Maryland Health Care Malpractice Claims Act, Md. Cts. & Jud. Procs. Code Ann. §§ 3-2A-01 *et seq.* (hereafter referred to as "HCMCA" or "the Act"), a complex statute applicable in any action filed in federal court that involves state law claims of medical negligence.

Based on personal experience and the reports of colleagues representing both plaintiffs and defendants in medical negligence cases, it is increasingly common for the parties to agree to a partial voluntary dismissal of certain individual health care providers, after discovery has commenced but prior to trial.

For individual health care providers, partial voluntary dismissal can ease or eliminate the psychological and/or perceived reputational harm associated with a settlement or verdict. Even after agreeing to a settlement, many health care provider defendants prefer dockets to reflect a "voluntary dismissal," rather than explicitly reflect a settlement of claims.

Accordingly, malpractice defendants frequently request partial voluntary dismissal as a way to facilitate settlement discussions. In my personal experience, partial voluntary dismissals increasingly have become valuable tools that help resolve cases that can be resolved without the need for a full jury trial on the merits.

Finally, where all parties acknowledge the advantages of a partial voluntary dismissal, such a dismissal can be accomplished very quickly, simply by filing a one-page document signed by all remaining parties in the action.

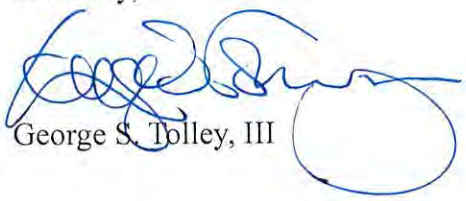
However, in the United States Court of Appeals for the Fourth Circuit, where Maryland is located, Fed. R. Civ. P. 41 currently is interpreted ***not*** to allow partial voluntary dismissals in actions where answers to the initial complaint have been filed and discovery has commenced. Rather, the Fourth Circuit considers a Rule 15 motion to amend the complaint as the exclusive mechanism to dismiss some but not all claims in such an action.

In situations where all parties to litigation agree that partial voluntary dismissal would be appropriate, requiring motions practice under Rule 15 is needlessly expensive, burdensome and time-consuming. Allowing a partial voluntary dismissal pursuant to Rule 41 would save time, money, and judicial resources.

For these reasons, I write to SUPPORT the proposed amendments to Fed. R. Civ. P. 41.

Thank you again for the opportunity to present these comments, and for your anticipated courtesy and indulgence.

Sincerely,



George S. Tolley, III

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: **Fed. R. Civ. P. 45 – Subpoena Procedure**

Members of the Committee on Rules of Practice and Procedure:

Thank you for allowing this opportunity to provide comments concerning the proposed amendments to Fed. R. Civ. P. 45 concerning subpoenas.

I write in SUPPORT of the proposed amendment to Rule 45, which would clarify ambiguities in the current Rule with respect to proper service of subpoenas and payment of witness fees.

I graduated from New York University School of Law in 1991. My office is located in Maryland. I have been a plaintiff-side practitioner for more than three decades. My practice focuses primarily on medical negligence litigation and trial work, on behalf of injured patients and their families. I am admitted to practice law in Maryland, North Carolina, West Virginia, and the District of Columbia.

In medical negligence litigation, we routinely take deposition testimony from witnesses, including but not limited to expert witnesses, who reside or work in jurisdictions different from the district in which the action is pending.

While appearance of witnesses and production of documents often is managed without difficulty through agreement of all parties, our office is constrained in certain cases to hire process servers to serve subpoenas. In such cases, having the additional clarity that the proposed amendment to Rule 45 provide would greatly benefit my clients, assist process servers to effect service, and thereby save time, money, and judicial resources.

With respect to those amendments that clarify the proper mode of service, I believe that it is beneficial to confirm how service of subpoenas is properly accomplished. In my view, the proposed amendment adopts methods of service from Rule 4(e) that are well-recognized and, accordingly, would be simple for experienced process servers to satisfy, thereby allowing service of subpoenas to be accomplished with a minimum of confusion or uncertainty.

I also write in SUPPORT of the proposed requirement of a 14-day notice period in Rule 45(b)(1)(B).

The Maryland Rules of Procedure designate a specific notice period for service of subpoenas, see Md. Rules 2-412(c) (service of deposition notice is required 30 days before scheduled production of documents), 2-510(d) (a party shall make "good faith effort" to serve a trial or hearing subpoena "at least 5 days before the trial or hearing").

The proposed 14-day notice requirement for federal subpoenas in Fed. R. Civ. P. 45(b) is both reasonable and appropriate, particularly given the availability of remote testimony for the convenience of witnesses.

For these reasons, I write to SUPPORT the proposed amendments to Fed. R. Civ. P. 45.

Thank you again for the opportunity to present these comments, and for your anticipated courtesy and indulgence.

Sincerely,

George S. Tolley, III

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Comment from Baxter-Kauf, Kate

Posted by the **United States Courts** on Feb 17, 2026

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Attachments 1

2026-02-13 FRCP Comments on Rules Changes 4922-3786-7919 v.1

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USC-RULES-CV-2025-0004-0282

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Comment Details | **Submitter Info**

Received Date

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February 13, 2026

DELIVERY TO COMMITTEE WEBSITE

Committee on Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Re: Proposed Amendments to Federal Rules of Civil Procedure

Dear Honorable John D. Bates, Chair, and the Committee on Rules of Practice and Procedure,

My name is Kate Baxter-Kauf, and I'm an attorney at Lockridge Grindal Nauen PLLP, based in Minneapolis, Minnesota. I primarily represent plaintiffs and the classes they seek to represent in complex class action litigation, often in data breach, cybersecurity, and privacy litigation. These cases are mostly in federal court, and often in multidistrict litigation. I write in regards to the proposals to change Fed. R. Civ. P. 7.1, 26, 41, 45, and 81. The changes proposed for Rules 7.1, 26, and 81 are common sense changes and I appreciate strongly the work the Committee has done in proposing thoughtful updates to conform with best practices and to make rules clear and easy to follow.

The proposed changes to Rule 41 are also common sense, helpful, and practical. As a practitioner in federal court for complex cases where named plaintiffs and classes often bring multiple claims that apply to different parties and may be pursued in complicated and overlapping scenarios, clarifying this rule is likely to aid courts in the efficient prosecution and, ultimately, resolution of cases. The proposed changes allow streamlining of the case, ensure that claims may be narrowed, and eliminate unnecessary obstacles. I would urge they be adopted.

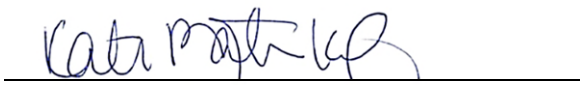
The proposed changes to Rule 45 are also welcome and should be adopted. First, the proposed changes to Rule 45(b) are, if anything, overdue, and would be exceptionally helpful for third-party practice in complex litigation. In an age of remote work, complex corporate structures, and fast-moving litigation, Courts should endeavor to have clear rules that follow actual practice. There is no reason to foreclose the use of ordinary service processes simply

because the target is a third party for whom a subpoena is required. Certified mail is often more reliable than in-person service, especially for businesses that do not regularly staff an in-person office. And since the purpose of the service rule is to make sure that the person or entity being served actually gets notice of the subpoena, providing multiple methods to do so is most likely to effectuate actual notice and efficient litigation. In my experience, and especially for complex or multidistrict litigation, the current rule often requires *worse* methods of service, or protracted litigation in courts throughout the country who are not overseeing the litigation, because a third party from whom we seek documents may be located anywhere. These rule changes are a helpful and useful way of streamlining third-party subpoena and discovery practice that will mean there are less ancillary disputes for courts to resolve and less delays in ensuring that fact discovery is complete. It will also keep costs for third-party practice lower by allowing certified mail in lots of circumstances that would require a physical service processor under the current rules, which is very much consistent with Rule 1.

Finally, the proposed changes to Rule 45(c) are also needed. Remote testimony is now the norm for many subpoenas, and comports strongly with Rule 45's requirement that parties seeking information or testimony from third parties seek to limit the burden on those parties. Ensuring that remote testimony is usable going forward and that witnesses are not burdened are squarely within the goals of Rule 45 and also ensures that courts have access to dynamic live testimony rather than stale deposition testimony.

Thank you for taking comments on these rules; I appreciate the ability to provide feedback and thank you all for your work. Please let me know if I can answer any questions.

Very truly yours,



Kate M. Baxter-Kauf
LOCKRIDGE GRINDAL NAUEN PLLP

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Comment from O'Rourke Investigative Associates, Inc.

Posted by the **United States Courts** on Feb 17, 2026

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Attachments 1

Public Comment Submission on Proposed Amendments to FRCP Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0283

Tracking Number
mlp-k5w5-r6zs

Comment Details | **Submitter Info**

Public Comment Submission on Proposed Amendments to FRCP Rule 45

Submitted by: *[Conner D. O'Rourke]* **Date:** *[02/16/2026]*

To: Committee on Rules of Practice and Procedure Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Members of the Committee,

I appreciate the opportunity to provide public comment on the proposed amendments to Federal Rule of Civil Procedure 45. I am submitting this comment on behalf of *[your organization / industry role]* to express significant concerns regarding both the **economic impact** on the professional process-serving industry and the broader **systemic risks** that the amendments pose to due process and the reliability of subpoena enforcement.

I. Executive Summary

The proposed amendments—authorizing non-personal methods of subpoena service such as U.S. Mail, commercial carrier, and other court-approved alternatives—represent a substantial departure from longstanding practice. By formally endorsing these alternative methods, the revised rule is expected to:

- materially reduce the demand for traditional in-hand subpoena service,
- cause significant revenue loss for thousands of professional process servers, particularly independent servers and small agencies, and
- introduce systemic risks that may weaken the reliability and enforceability of federal subpoenas.

While some courts already permit these alternative methods, the proposed rule eliminates the ambiguity that has historically preserved the central role of personal service and undermines an industry that has served the federal judiciary reliably for decades.

II. Economic Impact on the Process-Serving Industry

NAPPS and similar organizations represent a large portion of the process servers who provide federal subpoena services nationwide. Federal subpoenas make up a

meaningful and predictable category of professional work, particularly for independent servers and boutique agencies operating in both metropolitan and rural regions.

Based on conservative projections:

- **Demand for traditional hand-delivery will sharply decline**,
- **Revenue tied to stakeouts, skip traces, repeat attempts, and alternative-residence investigations will diminish**, and
- **Small businesses—many of which are family-operated—will face significant financial pressure**.

Unlike large service vendors, independent process servers cannot easily absorb this sudden structural shift. For many, federal subpoena work provides economic stability that sustains their broader operations.

III. Reliability and Due-Process Concerns

Personal service is not merely a historical convention—it is a cornerstone of procedural fairness.

Mail-based systems present well-documented risks:

- outdated or incorrect addresses,
- mail forwarding issues,
- shared or unsecured mailrooms, and
- carrier-confirmation logs that confirm delivery, but not delivery **to the intended recipient**.

These risks are largely invisible to courts reviewing tracking data. Yet they directly affect whether a subpoenaed party actually receives notice of a compulsory legal obligation.

A shift away from personal service increases the likelihood of disputes, noncompliance, and motions to quash, burdening both litigants and the courts.

IV. The “Second Wave” — Anticipated Spillover Into State Practice

Although the amendment targets federal subpoenas, its influence will not remain confined to federal court.

Based on decades of procedural evolution:

- Approximately thirty-five states model their civil rules on the FRCP. These states may move quickly to “harmonize” their subpoena procedures.
- In states with independent codes, judges often treat federal rules as persuasive authority, especially when evaluating the sufficiency of alternative service.
- Law firms and vendors will incorporate mail-based workflows into their systems and will naturally attempt to replicate these efficiencies in state practice.

The ripple effect is predictable and dangerous:

1. **Reduced demand for personal service in state courts**, even without formal rule changes.
2. **Growing vendor automation**, shifting service away from skilled professionals.
3. **Erosion of the process server’s role in the justice system**, weakening procedural safeguards that protect litigants’ rights.

This second wave represents the most significant long-term threat to the industry.

V. Request for Reconsideration

For these reasons, I respectfully urge the Committee to:

1. **Reconsider or withdraw the amendments** as currently drafted.
2. **Preserve personal service as the presumptive method of subpoena delivery**, with alternative methods available only upon a specific court finding.
3. **Conduct a comprehensive economic impact assessment**, which has not yet been publicly provided, evaluating the effect on small business owners, sole proprietors, and rural process servers.
4. **Gather additional testimony** from professional associations whose members will be significantly impacted.

Maintaining the integrity, reliability, and enforceability of subpoenas is essential to the federal civil justice system. The proposed amendments risk eroding these principles while

simultaneously destabilizing an entire profession that has served the courts dependably for generations.

VI. Conclusion

Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. While modernization is important, removing personal service as the foundational standard threatens both procedural fairness and the livelihoods of thousands of small business owners.

A federal rule change of this magnitude will not remain in the federal sphere. It will reshape attorney behavior, influence state rulemaking, and jeopardize the very system of personal service that safeguards litigants' rights nationwide.

I respectfully ask the Committee to give full consideration to the significant economic and systemic risks identified above and to engage further with industry stakeholders before finalizing any amendments to Rule 45.

Thank you for your attention and for the opportunity to comment.

Sincerely,

Inv. Conner D. O'Rourke, Chief Operating Officer

O'Rourke Investigative Associates, Inc.

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Comment from DiCello Levitt LLP

Posted by the **United States Courts** on Feb 17, 2026

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Comment

Enclosed are comments from DiCello Levitt regarding proposed amendments to Rules 41 and 45.

Attachments 1

DiCello Levitt FRCP 41 and 45 Comment

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USC-RULES-CV-2025-0004-0284

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Comment Details | **Submitter Info**

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February 16, 2026

BY .PDF SUBMISSION

Honorable James C. Dever III, Chair
Committee on Rules of Practice and Procedure

Honorable Sarah S. Vance, Chair
Advisory Committee on Rules of Civil Procedure

Judicial Conference of the United States
Thurgood Marshall Federal Judiciary Building
Washington, DC 20544

Re: ***Proposed Amendments to Federal Rules of Civil Procedure 45 and 26 Involving Subpoenas and Remote Testimony.***

To Whom It May Concern:

DiCello Levitt LLP respectfully submits this comment to the Committee on Rules of Practice and Procedure and the Advisory Committee on Civil Rules ("Advisory Committee") in response to the Judicial Conference's invitation to comment on proposed amendments to Federal Rules of Civil Procedure 41 and 45. DiCello Levitt endorses all proposed amendments to Rules 41 and 45.

A. Amendments to Rule 45(b)

The amendments to Rule 45(b) include several changes to Section (b)(1)(A) regarding methods of serving subpoenas. The proposed amended Rule clarifies that traditional personal service must actually be made on the person "personally" (mirroring Rule 4(e)(2)(A)). It also adds three new permissible methods of serving subpoenas: *first*, leaving a copy of the subpoena "at the person's dwelling or usual place of abode with someone of

suitable age and discretion who resides there" (mirroring Rule 4(e)(2)(B)); *second*, by "sending a copy to the person's last known address by a method of United States mail or commercial-carrier delivery, if the selected method provides confirmation of actual receipt" (similar to Rule 4(f)(2)(C)(ii) regarding service on foreign individuals and Rule 4(h)(1)(B) regarding waiver requests to corporate defendants); and *third*, by "using another means that is authorized by the court for good cause and is reasonably calculated to give notice" (similar to Rule 4(f)(3) regarding service on foreign individuals).

The changes clarify ambiguities, harmonize Rule 45 with Rule 4, and add sensible flexibility. The new alternative service methods are necessary because traditional personal in-hand service is ill-equipped to reach a person evading service. Most of the service methods are already used effectively under Rule 4 to serve summonses, and the provision that permits an alternative method authorized by the court is a sensible catch-all that gives courts flexibility to ensure service in those exceptional circumstances when other methods have failed. Courts have increasingly recognized the need for such flexibility. *See, e.g.*, *Youngers v. LaSalle Corr. Transp. LLC*, 2024 WL 4452620, at *1 (D.N.M. Oct. 9, 2024) (collecting cases); *Hardy v. Moreno*, 2022 WL 4667108, *1 (E.D. Cal. 2022). Absent additional, recognized service methods, courts and attorneys may interpret that "the standard of service of a nonparty witness subpoena [is] more rigorous than the service required for a summons and complaint." *BG Strategic Advisors, LLC v. FreightHub, Inc.*, 2023 WL 114864, at *4 (S.D. Fla. Jan. 6, 2023). The amendments to Rule 45 correct this illogical result and also eliminate further briefing on the issue in courts throughout the country.

Concerns raised by process servers that the amendments threaten their business model are misplaced. Rule 45(b) does not currently require that subpoenas be served by process servers, nor do the amendments limit their role. Process servers are both reliable and efficient. Law firms will continue to rely on them and traditional service methods in most cases.

The amendments also include two practical changes to Section (b)(1)(B) regarding service of subpoenas. *First*, the amended rule now requires a notice period of at least 14 days for subpoenas that command the person to attend a trial, hearing, or deposition. There is currently no minimum notice period for service of subpoenas in Rule 45. The amendment thus fills an obvious gap in the Rule and recognizes that complying with a subpoena often requires the person to make logistical arrangements such as asking off work, coordinating childcare, and consulting counsel.

Second, the amended rule relaxes the requirement for tendering fees for the person's attendance and mileage. The current requirement to tender fees at the time of service makes serving a subpoena unnecessarily complicated. It is more natural for the issuing party to coordinate payment of fees on the date of attendance, or shortly before. This amendment

does not necessarily address a pronounced problem but rather seeks to simplify and modernize the litigation process. Amendments like these advance "the basic philosophy of the federal rules . . . that simplicity, flexibility, and the absence of legalistic technicality are the touchstones of a good procedural system." 5 Wright & Miller, Federal Practice and Procedure: Civil 2d § 1217 at p. 169. Taking into account, however, pro-se and low income individuals who may need the modest fees in order to travel to the required location, we suggest the Advisory Panel consider including in the committee notes that the issuing party must tender fees reasonably in advance of the date of compliance if the person requests it to ensure their attendance. In real-world terms, a witness may request fees in advance of the compelled deposition date in order to buy bus tickets or hire a taxi to the deposition destination.

DiCello Levitt endorses the proposed amendments to Rule 45(b). The amendments improve clarity and flexibility in service of subpoenas and make the process more user-friendly.

B. Amendment to Rule 45(c)

Rule 45(c) is amended to allow a subpoena to compel remote testimony so long as the testimony location is within 100 miles of a witness's residence, regardless of whether it is more than 100 miles from the issuing district. The amendment was intended to abrogate *In re Kirkland*, 75 F.4th 1030 (9th Cir. 2023). Although the Central District of California district court found good cause under Rule 43 for a witness in the U.S. Virgin Islands to testify remotely at trial, the Ninth Circuit held that the court lacked the "subpoena power" to compel the testimony because—for purposes of the 100-mile limitation in Rule 45(c)(1)—the "place of compliance" with such a subpoena is the *trial* location, not the place from which the person remotely testifies. To the circuit court, it made no difference that the proposed location for the witness's remote testimony was within 100 miles of their residence, because the Central District of California courthouse was not.

Kirkland is not alone. Many district courts have disclaimed their power to compel remote testimony from a distant witness under Rule 45 when the *courthouse* (as opposed to the testimony site) exceeds a 100-mile radius from the witness's home or work. *See, e.g.*, *FA ND Chev, LLC v. Kupper*, 2025 WL 2829215, at *3 (D.N.D. Oct. 6, 2025) ("Rule 45 excludes witnesses from outside the geographical limitation of 100 miles from the courthouse."); *Coblin v. DePuy Orthopaedics, Inc.*, 2024 WL 1357571, at *3 (E.D. Ky. Mar. 29, 2024) ("The Court cannot issue a subpoena that compels actions by a witness well beyond its jurisdictional limits simply because technology has eased the practical burdens."); *Broumand v. Joseph*, 522 F. Supp. 3d 8, 23–24 (S.D.N.Y. 2021) (holding that a contrary interpretation would require the court "to conclude that testimony via teleconference somehow 'moves a trial to the physical location of the testifying person.'")

(quoting *Roundtree v. Chase Bank USA, N.A.*, 2014 WL 2480259 (W.D. Wash. Jun. 3, 2014)).

The geographic limitation in Section (c)(1) is designed to safeguard nonparty witnesses from unduly burdensome travel, not to restrict a court's authority to an arbitrary radius. The place of compliance with a subpoena to testify remotely is the place of physical attendance. The amendment clarifies this error.

As amended, Section (c)(2) explicitly defines the place of compliance with subpoenas for remote testimony as the place where the person is commanded to appear in person to provide such remote testimony. The amendment reaffirms the present meaning of Rule 45: a court's subpoena power is nationwide so long as witnesses are not required to travel farther than permitted. This interpretation has been broadly understood since Section (c) was added in 2013. *See, e.g. Bioconvergence LLC v. Attariwala*, 2023 WL 4494020, at *1 (S.D. Ind. June 29, 2023); *United States v. $110,000 in United States Currency*, 2021 WL 2376019, at *3 (N.D. Ill. June 10, 2021); *In re: 3M Combat Arms Earplug Prod. Liab. Litig.*, 2021 WL 2605957, at *4 (N.D. Fla. May 28, 2021); *Int'l Seaway Trading Corp. v. Target Corp.*, 2021 WL 672990, at *5 (D. Minn. Feb. 22, 2021); *Walsh v. Tara Constr., Inc.*, 2022 WL 1913340, at *2 (D. Mass. June 3, 2022). The 2013 Committee Notes state as follows:

> Rule 45(c)(1) addresses a subpoena to testify at a trial, hearing, or deposition. . . . When an order under Rule 43(a) authorizes testimony from a remote location, the witness can be commanded to testify **from any place** described in Rule 45(c)(1).

Fed. R. Civ. P. 45(c) advisory committee's note to 2013 amendment (emphasis added).

Concerns that the amendment over-promotes or defaults to remote testimony are unfounded. The proposed committee notes explicitly state that the amendment does not alter the standards for deciding whether to permit in-court remote testimony. Rule 43 still requires "good cause in compelling circumstances and with appropriate safeguards" for the court to permit remote trial testimony. That a court has the power in general to compel remote testimony of a distant witness under Rule 45(c) does not mean there is good cause to allow it under Rule 43 in any one case. This distinction is clear in the proposed committee notes.

DiCello Levitt endorses the proposed amendment to Rule 45(c).[1] Testimony from third-party witnesses is often critical to developing the factual record. In a highly geographically

[1] DiCello Levitt further agrees with the Committee that this change necessitates the proposed change to Rule 26(a)(3)(A)(i), which would require a party to specify in its

dispersed country, it is not unusual for those witnesses to be located over 100 miles from the courthouse. The amendment formalizes a practical and economical solution which both protects distant witnesses from unduly burdensome travel and promotes the just adjudication of disputes on a fulsome record.

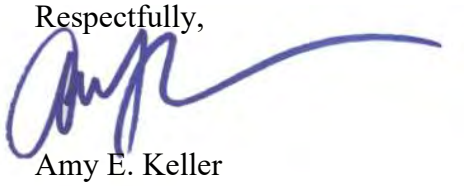
C. Amendment to Rule 41

Finally, DiCello Levitt endorses the Advisory Committee's proposed amendment to Rule 41, which provides a way to better facilitate voluntary dismissal of one or more *claims* in a litigation, as opposed to the entire matter, by the parties remaining in an action. The proposed amendment is in keeping with Federal Rule of Civil Procedure 1 and would be especially useful in complex litigation to allow parties to refine the claims proceeding to an eventual trial or resolution.

* * *

We appreciate the ability to provide feedback on these issues, and thank the Committee for its attention to these matters.

Respectfully,



Amy E. Keller

On behalf of:
Adam J. Levitt, Co-Founder
Mark A. DiCello, Co-Founder
Diandra Fu Debrosse, Managing Partner, Birmingham Office
Kenneth Abbarno, Managing Partner, Cleveland Office
Gregory Asciolla, Managing Partner, New York Office
Brian O'Mara, Managing Partner, San Diego Office

With assistance from:
Madeline Hills

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pretrial disclosures whether any of the witnesses the party expects to present will provide remote testimony.

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Comment from Mook, L. Benjamin

Posted by the **United States Courts** on Feb 17, 2026

Comment

I have been practicing in federal court for over twenty-five years. The proposed changes to Rules 41 and 45 promote efficiency while still protecting the rights of litigants. The proposed change to Rule 41(a) eliminates confusion among the circuits, some of which currently require dismissal of all claims and will not permit dismissal of individual claims against some but not all defendants. This change makes sense for litigants and judges. The proposed changes to Rule 45 align it with Rule 4 in terms of methods of service and provides reasonable alternatives for service of persons who are attempting to avoid service. The change to Rule 45(c) clarifying nationwide subpoena authority to allow witnesses to appear remotely in some circumstances will promote the use of remote live testimony rather than forcing litigants to use deposition testimony, which jurors can tolerate, but do not like.
Many thanks to the committee for proposing these revisions.

Give Feedback

Comment ID
USC-RULES-CV-2025-0004-0285

Tracking Number
mlp-ov0k-37ng

Comment Details | **Submitter Info**

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Feb 16, 2026

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Comment from National Association of Professional Process Servers

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

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Attachments 1

National Association of Professional Process Servers

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Comment ID
USC-RULES-CV-2025-0004-0286

Tracking Number
mlp-pm2e-m2w6

Comment Details | **Submitter Info**

® NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

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Gary A. Crowe, Administrator administrator@napps.org

TO: Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

FROM: National Association of Professional Process Servers

DATE: February 16, 2026

RE: Comments on Proposed Changes to FRCP Rule 45 (Subpoena)

Introduction

Established in 1982, the National Association of Professional Process Servers (NAPPS) is the largest non-profit trade association for process servers in the United States. It is a 501(c)(6) that represents over 2,500 process servers. Its mission for over forty years has been the promotion of professionalism, high ethical standards, efficient administration of justice and the rule of law.

Comments

The proposed language to Civil Rule 45, specifically subparagraph (b)(1)(A)(iii) regarding service of subpoenas, would allow service, in part, by ***"sending a copy to the person's last known address by a method of United States mail or commercial-carrier delivery, if the selected method provides confirmation of actual receipt."***

There are several foreseeable problems with this language. It is ambiguous as to what qualifies as a "last known address" and fails to include any safeguards that would ensure proper notice of the proceeding will be given to the named party. For a signature of any person at a location on a particular day to qualify as proper service creates more problems than it attempts to solve.

Not only does it fail to ensure the person to be served receives proper notice, but the ramification of that failure also moves upward to the parties involved in the action. The parties must be able to rely on the methods of service authorized and, in this instance, they cannot. The failure to provide proper notice will undoubtedly lead to greater administrative inefficiency and legal challenges, undermining the very goals the amendment seeks to advance.

Conclusion

Rule 45 currently provides a high level of confidence and reliability that the named parties are receiving proper notice. This should not be overlooked for the sake of convenience. Alternative methods of service should be implemented only after diligent attempts at personal service have proved unsuccessful.

For these reasons, the National Association of Professional Process Servers urge the Committee to not adopt the proposed changes, and to keep personal service as the preferred method of service for federal subpoenas.

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Comment from Charonko, Katherine

Posted by the **United States Courts** on Feb 17, 2026

Comment

See attached file(s)

Attachments 1

Charonko and Bruff Comment - Rule 45(b)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0287/attachment_1.pdf)

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USC-RULES-CV-2025-0004-0287

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Received Date

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Allison A. Bruff
abruff@baileyglasser.com

February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

Dear Committee Members:

We submit this comment in support of the proposed amendment to Rule 45(b) governing service of civil subpoenas. As complex civil litigators and trial lawyers, we believe that by clarifying permissible methods of service, this amendment will improve litigation efficiencies and access to justice in federal courts.

The proposed committee note acknowledges that while "service of a subpoena usually does not present problems . . . uncertainty about what the rule requires has on occasion caused delays and imposed costs." Courts have disagreed on whether "delivering" requires service of a subpoena by hand. The advisory committee seeks to solve that uncertainty and disuniformity through an amendment that provides clarification as to the means of delivering a subpoena. By enumerating widely accepted methods of service in (b)(1)(A)(i)-(iii) and preserving judicial discretion in (iv), the plain text and structure of the proposed amendment will provide needed clarity for courts, parties, and non-parties. This is a measured rule-based solution to a specific problem.

Opponents of the proposed amendment raise due-process concerns. Many contend that recognizing more methods of service will erode due process. For multiple reasons, we believe this concern is unsubstantiated. First, neither due process nor the federal rules depend upon a particular industry.[1] Second, the proposed amendment makes clear that notice is paramount and a selected method under new (b)(1)(A)(iii) must "provide[] confirmation of actual receipt." Third, the rule change would improve access to justice, a fundamental due-process principle itself.

We appreciate the opportunity to comment in support of the proposed amendment.

Sincerely,

Katherine E. Charonko
Allison A. Bruff

[1] We understand concerns have been raised about negative impacts the proposed amendment might have on process servers. Some oppose the proposed amendment because the demand for process servers might go down as litigants consider using other methods to effectuate service. While we respect and appreciate the role process servers play in civil litigation, we believe the advisory committee's recognition of other methods (e.g., by commercial carrier) of service is an important step toward modernization and access to justice.

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PUBLIC SUBMISSION

Comment from Weis, Kevin

Posted by the **United States Courts** on Feb 17, 2026

Comment

As an attorney in practice for over 26 years I write to support the proposed amendments to FRCP 41(a), 45(b), and 45(c).

Comment ID
USC-RULES-CV-2025-0004-0288

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mlp-qhnh-2uds

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Comment from Radler, Stacey

Posted by the **United States Courts** on Feb 17, 2026

Comment

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feb 15 comment

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Comment ID
USC-RULES-CV-2025-0004-0289

Tracking Number
mlp-smcs-rox4

Comment Details | **Submitter Info**

Subject: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

February 15, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts

Re: Public Comment Opposing Proposed Amendments to Federal Rule of Civil Procedure 45

Dear Committee Members,

Thank you for the opportunity to comment on the proposed amendments to Federal Rule of Civil Procedure 45. As owners of Court Support Inc, a licensed process-serving agency established in 2001, we write to express our deep concern regarding the potential impact of the proposed amendments on the process-serving industry and, more importantly, on the fundamental principles of due process.

The proposed amendments would permit non-personal methods of subpoena service, including service by U.S. Mail, commercial carrier, or other court-approved alternatives. These changes raise serious concerns regarding reliability, security, and the integrity of legal service. Based on both personal and professional experience, we strongly believe that allowing non-personal service would significantly undermine the reliability that personal service is designed to guarantee. A shift away from personal service ultimately will increase the likelihood of disputes.

Mail delivery is not infallible. There are well documented risks with this type of service. This includes but is not limited to outdated/incorrect addresses and mail forwarding issues. Our company has experienced instances of mail theft in which checks were stolen, altered, and cashed for inflated amounts. Such incidents have caused financial harm and increased costs to the public through higher banking fees. If a subpoena were stolen, lost, or misdelivered, the consequences could be far more serious. It would potentially infringe upon individuals' privacy rights and obstructing the judicial process. Even the Postal Service acknowledges that postmarks and delivery timelines are not perfectly reliable indicators of actual receipt. Our postal searches through USPS have shown "deliverable" addresses only to be returned as undeliverable weeks, sometimes months later.

The privacy implications are equally concerning. Many individuals have inadvertently received mail intended for others. If a subpoena containing sensitive legal information is delivered to the wrong address and opened by mistake, the result could be a violation of privacy and a compromise of the fairness of legal proceedings.

From a professional standpoint, the current system is built on accountability and diligence. When we receive subpoenas for service, we ensure they are delivered within the time allotted by law. Frequently, we are provided with incorrect or outdated addresses and must conduct additional investigation to locate the proper recipient. This hands-on verification is essential to ensuring proper service. If subpoenas were simply mailed to an incorrect address, substantial time could pass before the error is discovered, potentially prejudicing the parties involved.

On a personal level we have operated and grown our licensed process serving agency over the 25 years we have been in business. We currently employ eleven individuals, including two full-time professional licensed process servers. We also rely on a network of independent servers throughout New York City and across the country. This community of hardworking professionals is an integral part of the justice system. The proposed amendments threaten not only our livelihood but also the viability of an industry that plays a critical role in safeguarding due process and maintaining judicial integrity.

We respectfully ask the Committee to reconsider these proposed amendments. Federal Rule 45 plays a crucial role in ensuring that subpoenas are delivered promptly, reliably, and in a manner consistent with due process. Maintaining the requirements of personal service preserves accountability, verification, and fairness. These are the principles that cannot be ensured through non-personal methods of service.

Thank you for your time and for providing the opportunity to share our perspectives on this important matter.

Respectfully submitted,

Stacey Radler

Larry Radler

Court Support, Inc.

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Comment from Jean Martin, Francesca Burne

Posted by the **United States Courts** on Feb 17, 2026

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Comment

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Attachments 1

FRCP Amendment Comments R.45 (final)

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0290/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0290

Tracking Number
mlp-wzbl-tyx6

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Neil D. Overholtz (FL)* (1972-2022)
R. Jason Richards (FL, CO)*
Bobby J. "Brad" Bradford (FL, AL)*
Stephen H. Echsner (FL)*
Daniel J. Thornburgh (FL, MN)*
E. Samuel "Sam" Geisler (FL, IL)*
Jennifer M. Hoekstra (LA)*
S. Mary Liu (CA, FL)*
Chelsie R. Warner (MT, NV, WA, WY)*
Samantha M. Katen (FL, NC, CO)*
J. Christopher Klotz (AL, DC, FL, MS)*
W. Eric Stracener (MS)*
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Nathan C. Bess (FL)†*
Hillary M. Nappi (NY, NJ, PA, U.S. Supreme Court)†*
Madeline G. Theophilus (NY)†*

† OF COUNSEL

February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Comment in Support of Amendments to Rules 45(b) and 45(c)

Dear Committee Members:

We write to express our strong support for amending Rule 45(b) of the Federal Rules of Civil Procedure to authorize additional, practical methods for serving subpoenas. Under the current rule, personal service is often the only clearly authorized method. In many cases, that requirement works without difficulty. In a growing number of cases, however, individuals actively evade service or reside in locations that make personal service unnecessarily costly and inefficient. Counsel are then forced to retain professional process servers to conduct repeated attempts or extended surveillance simply to effectuate service of a subpoena. This can impose significant expense on litigants—particularly in complex civil litigation—without materially advancing the fairness or reliability of the process.

Allowing service by commercial carrier that provides confirmation of delivery would preserve due process protections while reducing unnecessary cost. Reputable carriers maintain detailed tracking records and delivery confirmations that provide objective proof of receipt. In many circumstances, such service is at least as reliable as in-hand delivery, and far more efficient. It would also align Rule 45 with modern business practices, where important legal and financial documents are routinely transmitted through secure commercial delivery services.

Equally important is the proposed authorization for service by a method approved by the court upon a showing of good cause. This flexible standard would allow courts to address situations in which a witness is deliberately evading service or where traditional personal service is impracticable. Courts are already experienced in evaluating comparable requests in other procedural contexts. Providing similar discretion under Rule 45 would ensure that litigants are not unfairly prejudiced by a witness's avoidance tactics, while still requiring judicial oversight to safeguard fairness.

Bryan F. Aylstock (FL, AL, MS)*
Justin G. Witkin (FL, MS)*
Douglass A. Kreis (FL)*
Neil D. Overholtz (FL)* (1972-2022)
R. Jason Richards (FL, CO)*
Bobby J. "Brad" Bradford (FL, AL)*
Stephen H. Echsner (FL)*
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E. Samuel "Sam" Geisler (FL, IL)*
Jennifer M. Hoekstra (LA)*
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Francesca Burne (FL, PA)*
Nathan C. Bess (FL)†*
Hillary M. Nappi (NY, NJ, PA, U.S. Supreme Court)†*
Madeline G. Theophilus (NY)†*

† OF COUNSEL

We also strongly support an amendment to Rule 45(c) to clarify and restore nationwide subpoena authority in light of the decision by the United States Court of Appeals for the Ninth Circuit in *In re Kirkland*. That decision has created uncertainty and imposed unnecessary geographic constraints on a court's ability to compel compliance in a manner consistent with modern litigation practice. In an era in which remote proceedings are commonplace and technologically readily available, witnesses can appear by contemporaneous video transmission without the burden and expense of travel. Restoring clear nationwide subpoena authority would ensure that courts may require remote live testimony when appropriate—an outcome that is often preferable to relying on deposition transcripts taken months or years earlier. Live testimony, even when remote, permits real-time examination, assessment of credibility, and judicial supervision, all of which promote more accurate and efficient factfinding. Clarifying Rule 45(c) in this manner would reduce costs, enhance access to relevant testimony, and further the fair administration of justice.

The proposed amendments would not eliminate personal service as the default method, nor would they expand subpoena power without limit. Rather, they would create sensible, carefully cabined options that reflect modern realities while preserving due process protections. By reducing unnecessary expense and delay and facilitating live testimony where appropriate, these amendments would promote the "just, speedy, and inexpensive determination of every action" envisioned by Rule 1.

For these reasons, we respectfully urge the Committee to adopt amendments to Rules 45(b) and 45(c) consistent with the proposals described above. Thank you for your consideration of these comments.

Respectfully submitted,

s/ Jean S. Martin
Jean S. Martin

s/ Francesca K. Burne
Francesca K. Burne

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Pensacola, Florida 32591

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Boca Raton, Florida 33432

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Comment from Gibson Consumer Law Group, LLC

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

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Attachments 1

2026.02.16 - GCLG Letter to Rules Committee

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0291/attachment_1.pdf)

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Comment ID
USC-RULES-CV-2025-0004-0291

Tracking Number
mlp-wzsf-opp1

Comment Details | **Submitter Info**

Received Date

GIBSON CONSUMER LAW GROUP, LLC

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Re: **Comment Regarding Proposed Changes to Fed. R. Civ. P. 7.1, 26, 41, 45, and 81.**

Dear Members of the Committee on Rules of Practice and Procedure:

My name is MaryBeth Gibson. I am the founder of Gibson Consumer Legal Group, LLC. Prior to that, I was the leader of my former firm's Class Action Section that litigated both mass torts and consumer privacy cases. My firm specializes in class actions involving complex civil litigation, including data privacy litigation, data breach and misuse, consumer fraud, and business torts. The majority of my practice is in federal court on behalf of plaintiffs. I serve as counsel in many complex class action matters. I write with respect to the proposed changes to Fed. R. Civ. P. 7.1, 26, 41, 45, and 81.

The proposed change to FRCP 7.1 regarding corporate disclosure that requires a business organization that owns 10% or more of a party, regardless of whether that ownership is designated as stock, is a practical evolution of the rule and makes sense with respect to evaluating bias and recusal.

The proposed changes to FRCP 41(a) regarding voluntary dismissal which would permit dismissal of one or more claims makes sense particularly in complex litigation involving multiple parties where initially many claims are asserted before a consolidated complaint is filed. The proposed change that would only require the signatures of the parties remaining in the action also promotes the efficient progression of an action. Many times, parties are initially eager to pursue litigation only to discover they cannot dedicate the time necessary to pursue their claims, and in some cases, become nonresponsive. Permitting the parties who remain in the litigation to stipulate to a dismissal of such claims would streamline litigation. I support the amendments to Rule 41.

The proposed changes to FRCP 45(b) regarding service of a subpoena should also be adopted. The rule as stated is ambiguous and creates issues for parties seeking to confirm compliance with the Rule. Permitting service by the proposed alternative methods will streamline third-party discovery practice and facilitate fewer delays in fact discovery. I highly endorse subsection (A)(iii) which permits service by a commercial-carrier that provides confirmation of actual receipt. This proposed change brings the rule into current day practices.

The proposed changes to FRCP 45(c) and 26(a) regarding remote testimony are much needed changes particularly in light of how parties practiced during COVID. Remote testimony became common place, and it should be extended to the court room. There are guidelines and best practices upon which parties can agree to ensure reliability prior to testimony. Allowing remote testimony also reduces the burden on third-parties, which comports with Rule 45's mandate to limit burden. I endorse these proposed changes.

The proposed changes to FRCP 81 regarding post-removal jury demands is a welcome clarification to jury demands in removed cases.

Thank you for the opportunity to submit comments on the important amendments to these Rules.

Sincerely,

/s/ MaryBeth V. Gibson

MaryBeth V. Gibson

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Comment from Barnes, Lauren

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
/ Document (USC-RULES-CV-2025-0004-0001) (/document/USC-RULES-CV-2025-0004-0001) / Comment

Comment

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Attachments 1

2016-02 LGB submission on Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0292

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PUBLIC JUSTICE
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February 16, 2026

Rules Committee Secretary
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, DC 20544
RulesCommittee_Secretary@ao.uscourts.gov

Dear Committee Members,

I write to express support for the proposed change to Rule 45(c) and to encourage the Committee to continue the efforts to expand access to justice by modernizing Rule 43 as well.

In November 2025, I stepped in as Acting CEO of Public Justice, a nonprofit legal advocacy organization that takes on the biggest systemic threats to justice of our time – abusive corporate power and predatory practices, the assault on civil rights and liberties, and the destruction of the earth's sustainability. We do that primarily through high-impact litigation, paired with strategic communications and strong partnerships, to fight abusive and discriminatory systems. Before joining Public Justice, I was a Partner at Hagens Berman Sobol Shapiro LLP, where I spent approximately twenty years litigating complex antitrust and consumer protection cases on behalf of patients, purchasers, and the public. These cases often involved scores of witnesses, spread throughout the country, and spanned many years. My experience in those cases informs the perspective I share here.

The change proposed by the Committee addresses a misinterpretation of Rule 45, clarifying that the 2013 amendments enable courts to compel remote testimony from any location within the geographic confines of Rule 45(c)(1). This modest revision should be without issue and instead welcomed, drawing practice into line with the intended effect and ridding the bar and trial courts of the uncertainties and time-consuming disputes created by conflicting views on the scope of the remote trial subpoena power.

Few seem to legitimately dispute the wisdom and necessity of making this correction to Rule 45(c). Instead, the pushback focuses on different but related questions of whether and when courts should permit remote testimony and whether remote testimony can and should replace deposition testimony as the default second best option. These questions revolve around Rule 43, and I urge the Rule 43/45 Subcommittee and this Committee to continue to address them. In that vein, I offer some observations.

Remote testimony expands access to justice, as parties and witnesses often face significant barriers to appearing live in the courtroom. Incarcerated individuals challenge their detention. Family and health emergencies disrupt travel plans, as does weather. And, of course, cost can be an obstacle.

Judges and juries benefit from live—even if remote—testimony. Deposition tape is stale. In cases I worked on, depositions were often taken years before trial. Deposition tape is, frankly, boring, generally consisting of disembodied voices and one unmoving head and torso. Deposition tape rarely includes cross-examination; in my years of practice, defense counsel allowed a second, for trial, deposition exactly once—and only because it was an ill defense witness that they wanted updated testimony from. And deposition tape usually involves testimony that is so gummed up by the other side's designations that it is hard for jurors to follow.

In addition, preparing deposition tape for trial requires huge amounts of time and resources by both litigants and the court to address deposition designations. With potentially dozens of witnesses to be put on by

deposition, the parties spend scores of hours designating and objecting to testimony, meeting and conferring over disputes, and submitting most of them to the court for rulings. Recognizing that the parties are likely to narrow their designations as the reality of trial time limits set in, judges face the dilemma of ruling on broader designations in advance or cramming to do it during trial, in the midst of addressing other issues in the trial, not to mention their other cases. All of this could be avoided with remote testimony.

I have two responses to the suggestions that some on the defense side have raised that changing Rules 43 and 45 will result in trials becoming fully remote, with virtually no one appearing in the courtroom. First, I've rarely encountered a plaintiff that does not want to be live in front of the judge and jury as they seek justice. The chance to tell their story and be heard is what they are looking for; they will not give up the chance to do that in person lightly. Second, in larger cases, defendants already frequently refuse to have their personnel appear for trial. With employees working and living across the country, often not within the district where cases were consolidated, defendants can call those they deem favorable witnesses to trial and profess lack of control over anyone the plaintiffs may want. The result is that juries have to sit through hours and hours, sometimes days and days, of taped testimony. Even with the best of intentions, we would all struggle to pay attention in that setting.

I encourage the Committee to adopt the change to Rule 45(c) and for the Subcommittee to continue its work on Rule 43. I appreciate the significant and thoughtful attention that the Rule 43/45 Subcommittee and this Committee have given, and will continue to give, to these matters.

Sincerely,

/s/ *Lauren Guth Barnes*

Lauren Guth Barnes

publicjustice.net

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Comment from Johnson, Webbert & Beard, LLP

Posted by the **United States Courts** on Feb 17, 2026

Comment

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Attachments 1

Comment on Proposed Amendment to Rule 45

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Comment ID
USC-RULES-CV-2025-0004-0293

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Re: Comment in Support of Proposed Amendments to Federal Rule of Civil Procedure 45(b)(1)

Dear Honorable Committee Members:

I've been prosecuting civil rights action for 40 years and served for over 20 years on the Local Rules Advisory Committee for the United States District Court for the District of Maine.

It has significantly increased the cost and complexity of obtaining essential discovery from third parties in my cases that Rule 45 does not unambiguously allow service of a subpoena by service by U.S. mail or commercial carrier with a confirmation of delivery. Although some courts allow service of subpoenas under Rule 45 by the even more economical method of email, the proposed amendments strike a fair balance between due process objectives of adequate notice and Rule 1 objectives of securing speedy and inexpensive determinations. The proposed amendments also make the service process more efficient and fairer by specifying how witness fees may be tendered and providing the default of a 14-day notice period for a subpoena for attendance at a trial, hearing, or deposition.

Please make our litigation procedures more transparent and efficient by approving these proposed amendments.

Sincerely,

David Webbert

David G. Webbert

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PUBLIC SUBMISSION

Comment from Slavik, Donald

Posted by the **United States Courts** on Feb 17, 2026

Comment

I support proposed the proposed amendment to Rule 41(a) allowing a plaintiff to dismiss one or more claims of an action without having to dismiss the entire action. This will streamline the prosecution of cases, allowing one to dismiss what may turn out to be an unproveable claim while pursuing a more focused and provable claim.

I also support the amendment to Rule 45(b) to allow additional methods of serving a subpoena. Modern technology and methods of communication should be allowed to reduce the cost and improve the speed of service of subpoenas. We are not in the 1920's. It's the 2020's and need to modernize.

Lastly, amending Rule 45(c) to allow nationwide subpoena authority again improves the efficiency of the courts and prosecution and defense of cases in the modern ages.

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Comment from Camerlengo, Joseph

Posted by the **United States Courts** on Feb 17, 2026

Docket (/docket/USC-RULES-CV-2025-0004)
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Comment

See attached comment in support of the proposed amendments to FRCP 41(a), 45(b) and 45(c)

Attachments 1

Comment Supporting Amendments to FRCP 41a 45b and 45c

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0295/attachment_1.pdf)

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February 16, 2026

VIA Electronic Submission
Honorable John D. Bates, Chair
Committee on Rules of Practice and Procedure

RE: Response to Request for Public Comment on Proposed FRCP 41(a), 45(b) and 45(c)

Dear Committee Members:

As a practicing attorney with more than 30 years of experience litigating civil cases in both federal and state courts, I respectfully submit these comments in support of the proposed amendments to Federal Rules of Civil Procedure ("FRCP") 41(a), 45(b) and 45(c). For the last 15 years, I have specialized in handling complex tractor trailer and commercial motor vehicle crashes all over the country. Those cases often involve many issues and complications for the courts and the litigants pursuing those claims that would be positively impacted by the proposed FRCP changes. I will endeavor to address each of the proposed changes and the positive impacts they would have improving the cost effective pursuit of these typically death or catastrophic injury cases and promoting judicial economy at this same time.

Proposed Change to FRCP 41(a):

Given the complex nature of the claims that should be asserted against the numerous parties in a tractor trailer crash case, clarifying the circuit split to allow a plaintiff to dismiss particular counts or claims from an action, without dismissing the entire action is imperative. With short statutes of limitations and well healed experienced defendants and defense counsel that refuse to cooperate or share information prior to filing a lawsuit, catastrophically injured plaintiffs must sue all the potential defendants and allege all the potential causes of action against them. That allows appropriate discovery into which defendants are the most culpable and what are the best claims to pursue against those defendants. Allowing plaintiffs to narrow the parties and claims to be litigated for trial promotes the resolution of all or portions of claims; preserves precious court time on dispositive motions, Daubert motions, and motions in limine; and reduces the time, witnesses, and evidence at trial. Please approve the proposed changes to FRCP 41(a).

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Proposed Change to FRCP 45(b):

This is the most critical rule change being proposed. In our complex commercial motor vehicle crash cases, we often deal with companies and witnesses that are evading service of process. Providing dependable but alternative means of serving subpoenas is a long awaited and needed change to FRCP 45(b). As the Committee can see based on the number of process servers that have flooded the comments in opposition to this proposed amendment, this rule has created a significant amount of unnecessary costs to plaintiffs and a boon to the process server industry. The proposed amendment does not eliminate the need for or use of process servers. However, the amendment would provide a more cost-effective means to serve witnesses and companies that are evading traditional means of service by process servers. Please approve the proposed changes to FRCP 45(b).

Proposed Change to FRCP 45(c):

The proposed changes to FRCP 45(c) are also particularly important and long overdue. Nationwide subpoena authority is critical in complex civil litigation like that arising from a tractor trailer or commercial motor vehicle crash. Telematics providers, cell phone providers, brokers, shippers, former employers, DOT compliance companies that help set up trucking companies or qualify drivers, DOT medical examiners, truck maintenance facilities, etc. are just a few of the persons and entities we are typically trying to get information from about the truck driver, tractor trailer, and trucking company. Likewise, defendants are often trying to get out of state medical and employment records on plaintiffs bringing claims against them. Being able to issue nationwide subpoenas reduces the unnecessary time and cost burdens on civil litigants to domesticate out of state subpoenas and promotes the faster and more cost-effective pursuit of civil claims for all parties. In addition, allowing for remote live testimony rather than stale prerecorded deposition testimony for witnesses that cannot make it to court live is critical. Since COVID, many people are accustomed to appearing remotely and viewing others remotely. Live testimony allows judges and jurors to assess credibility, interact with the witness, and allow for the dynamic presentation of a critical witnesses' testimony if something unforeseen happens during trial. The proposed rule changes to FRCP 45(c) will benefit all civil litigants and should be approved.

Respectfully Submitted,

Joseph V. Camerlengo, B.C.S.

THE FLORIDA BAR BOARD CERTIFIED CIVIL TRIAL

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Comment from Aikens, Carla

Posted by the **United States Courts** on Feb 17, 2026

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Comment

Comment of Carla D. Aikens is attached.

Attachments 1

Rule 45(b) Comment of Carla D. Aikens

Download (https://downloads.regulations.gov/USC-RULES-CV-2025-0004-0296/attachment_1.pdf)

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

RE: Comment in Support of Proposed Changes to Rule 45(b)

Dear Committee,

I write in support of the proposed amendments to Rule 45(b) governing service of subpoenas. In particular, I support the amendments specifying workable service methods beyond in-hand personal delivery, including leaving the subpoena at a person's dwelling with a resident of suitable age and discretion, service by mail or commercial carrier to the person's last known address with confirmation of actual receipt, and court-authorized alternative means upon a showing of good cause that are reasonably calculated to give notice. These changes properly focus the rule on reliable notice and practical service rather than rigid formalism.

As a plaintiffs' employment attorney practicing in federal courts, I routinely see how Rule 45's existing service framework imposes unnecessary cost, delay, and inefficiency. In contingency-fee employment litigation, plaintiffs' counsel typically advance litigation expenses. Repeated attempts at personal service, particularly where witnesses evade service, create disproportionate financial burdens that affect case strategy and timing. The practical consequences are significant and recurring.

The problem is especially acute in employment cases, where former employees are frequent and critical subpoena targets. When a former employee evades personal service, the current rule often requires multiple process-server attempts followed by motion practice and compliance disputes – if the employee can even be served. In several of my cases, process servers were required to make five or more attempts to serve the same witness due to evasion. In one matter, service and compliance disputes consumed nearly a year of the case (due to the critical nature of their testimony) and materially extended the litigation. The rule should not reward avoidance behavior or allow service mechanics to become a tool for delay.

The proposed amendments address these issues in a balanced and sensible manner. Service by mail or commercial carrier with confirmation of actual receipt provides dependable evidence of delivery while reducing needless expense. The availability of court-authorized alternatives upon a showing of good cause preserves judicial oversight and flexibility without forcing litigants into costly disputes over personal delivery. These changes align the rule with the core objective of ensuring actual notice and efficient compulsory process while maintaining appropriate procedural safeguards.

I also support the addition of a default minimum notice period for subpoenas that command attendance at a trial, hearing, or deposition. A clear baseline promotes predictability, reduces disputes involving non-parties, and assists courts and litigants in managing discovery efficiently.

Finally, I support the clarification regarding tender of witness fees and mileage. Allowing those amounts to be tendered either at the time of service or at the time and place the person is commanded to appear reduces technical disputes that can otherwise derail discovery while preserving the witness's entitlement to fees.

Overall, the amendment reduces incentives for evasion, lowers unnecessary transaction costs, and allows courts and litigants to focus on merits rather than service mechanics.

Respectfully Submitted,

/s/ *Carla D. Aikens*

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Comment from Aikens, Carla

Posted by the **United States Courts** on Feb 17, 2026

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Comment

Comment of Carla D. Aikens re: Rules 41(a) and 45(c) are in the attached document.

Attachments 1

Rules 41(a) and 45(c) Comment of Carla D. Aikens

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February 16, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

RE: Comment in Support of Proposed Changes to Rules 41(a) and 45(c)

Dear Committee,

I write in support of the proposed amendments to Rules 41(a) and 45(c). As a plaintiffs' employment and civil rights attorney practicing in federal courts, I regularly see how procedural ambiguity can generate unnecessary cost and motion practice that distracts from the merits and disproportionately burdens individuals litigating against well-resourced entities.

First, I support the proposed amendment to Rule 41(a) clarifying that a plaintiff may voluntarily dismiss one or more claims. Modern federal cases frequently involve multiple claims and multiple parties, and it should be straightforward for a plaintiff to narrow a case as discovery develops, claims are resolved, or litigation strategy changes. Clarifying that Rule 41(a) may be used to dismiss fewer than all claims will reduce unnecessary procedural workarounds and promote efficient case management.

I also support the clarification to Rule 41(a)(1)(A)(ii) that a stipulation of dismissal must be signed by parties who have appeared and remain in the action. In multi-party cases, requiring signatures from parties who have already been dismissed or are no longer participating can create needless delay, expense, and avoidable disputes. This change facilitates settlement and narrowing of issues while keeping the focus on the parties who are actively litigating the remaining claims. I further understand the proposal does not expand Rule 41(d), which remains directed at situations involving dismissal of an entire action.

Second, I support the proposed amendment to Rule 45(c) clarifying the place-of-compliance analysis for subpoenas that require remote testimony. Remote testimony is now a practical and often least burdensome mechanism for securing evidence from non-party witnesses, especially in employment cases where former employees and other key witnesses may have moved or live outside the forum state. Where courts conclude they lack authority to compel remote testimony

based on geographic compliance concepts developed for in-person attendance, parties are forced into avoidable expense and delay, and courts are drawn into collateral disputes about logistics rather than substance.

The proposed clarification is balanced. It preserves the protections against undue burden built into Rule 45(c)(1), while making clear how those limits apply when testimony is taken remotely. It supports efficient adjudication without expanding when remote testimony is permitted in the first instance, as those determinations remain governed by the existing rules and court discretion.

For these reasons, I respectfully support the proposed amendments to Rules 41(a) and 45(c).

Respectfully Submitted,

/s/ *Carla D. Aikens*

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Comment from Lawrence, Jennifer

Posted by the **United States Courts** on Feb 17, 2026

Comment

I am in favor of Rule 45(b) which would provide additional methods for serving a subpoena. It allows service more easily for those evading service. I am also in favor of Rule 45(c) because it is important for witnesses to be able to appear remotely in certain situations and remote live testimony is preferable in many instances as opposed to reading a deposition. I am also in favor of Rule 41(a). These rules would promote efficiency and economy within the judicial system.

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