

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,

[Name]

[Title / Organization]

[Contact Information]