

## SERVICE in a CIVIL CASE: Frequently Asked Questions

### 1. What is a “Summons”?

A **summons** is a court order that gives the defendant notice that a lawsuit has been filed against him or her. It also explains that a judgment will be made against him or her if the defendant does not answer the complaint within a specified number of days. When you file your Civil Complaint documents, the Clerk of Superior Court will issue a summons to each Defendant named in the complaint.

### 2. What is “Service of Process”?

The delivery of your Summons and Complaint to the Defendant you are suing is called "service of process." After you file your Complaint and the Clerk issues the Summons, a copy of the Summons, civil Complaint, and certificate regarding compulsory arbitration must be served on each Defendant. Service of Process notifies the Defendant that a lawsuit against him or her is filed, which may affect his or her rights, and the Defendant has a right to speak and defend him or herself.

### 3. What does it mean to “Serve papers”?

- Serving papers on the Defendant is an official handing over of your Summons and Complaint to the Defendant. Papers must be "served" on any other person who is involved in the lawsuit or anyone the law requires to be served.
- Service of court papers informs the Defendant what you are suing for, what you are asking the court to do, and that Defendant has a right to defend against the Complaint.
- A person is served when they officially receive the court papers.

### 4. What if I hire a Certified Process Server who is unsuccessful with serving the Defendant?

- If the certified process server attempts to serve the Defendant multiple times with no success, you must further research the location of the Defendant. See the last page of these FAQs for various ways you may research the Defendant's location.
- If, after diligently exhausting ways to locate the Defendant, you still cannot locate the Defendant, you may research the rules for service by publication. See Arizona Rules of Civil Procedure, Rule 4.1(l) and 4.2(f). If you have complied with this rule, you may serve by the method of publication.

### 5. Are there different kinds of Service?

Yes. However, to begin a Civil lawsuit, Personal Service is generally required. If you have a complicated case, or your case involves a Defendant from outside Arizona, ask an attorney for assistance in interpreting the rules and kind of service that best fits your case.

- **Personal Service** – when the Sheriff, Constable, or Certified Process Server **hand delivers** the Complaint and Summons to the Defendant, or to a person of suitable age and discretion who lives with Defendant. The Sheriff, Constable or Process Server must tell the other person that these are legal papers, then leave the papers near the person (at their feet is fine), or by leaving the papers at the Defendant's dwelling with a person of suitable age and discretion who lives there. The person they serve does not have to accept the papers, or say, or sign anything. ARCP 4.1(d), 4.2(b).
- **Publication** - After you follow the list of ways to locate the Defendant (in #11 below), and you still cannot find the Defendant, you may request (by motion) an order from the court allowing you to use this type of service. Your motion must convince the court by describing all your past unsuccessful attempts to serve the Defendant, that you have a valid claim against the Defendant, and that the Defendant you are trying to serve is necessary to the case. Only with the Court's permission, may you serve the Defendant by publication. ARCP 4.1(l), 4.2(f).
- **Alternative Service** – (*Court permission required*). After you attempt to locate the Defendant (See list in #9 below), and you still cannot find the Defendant, you may request (by motion) an order from the court allowing you to use this type of service. With Court permission, you then may give the court papers to the Sheriff, Constable, or Process Server who serves process on the Defendant by leaving the court papers with someone other than a party to the lawsuit. ARCP 4.1(k). Also, you must mail the Summons and the Complaint and the Court order authorizing alternative service to Defendant's last known business or residence.

**Note:** If you have a complicated case, or your case involves a Defendant from outside Arizona, ask an attorney for assistance in interpreting the rules and means of service that best fits your case.

## 6. Who can serve the court papers in a Civil Case?

The Arizona Rules of Civil Procedure Rules 4(d) state that the people listed below may affect service within Arizona. These persons must not be involved in the case and must swear to the date, and method of delivery of the court papers.

- The county Sheriff, or Sheriff's deputy,
- The county Constable, or Constable's deputy
- A Certified Private Process Server

## YOU CANNOT SERVE YOUR OWN DOCUMENTS!

## 7. Does it cost money to serve the Civil Complaint and Summons?

**YES.** The county sheriff, constable, or certified process servers charge for serving the Civil Complaint. The charges vary, so ask questions about the cost before you file at the court or hire a process server.

## 8. What if I cannot afford to pay a process server?

If you cannot pay a process server to serve your civil Complaint, ask for a Fee Deferral/Waiver packet at the Law Library Resource Center. The last form in the Fee packet involves service of process. Complete this form, especially noting the Defendant's exact address on the last page. Fill out the remainder of the form if you also request a Fee Deferral or Waiver. Deliver this Fee packet to the clerk of court **at the same time** you file your Civil Complaint packet.

## 9. When do I serve the Civil Complaint and Summons?

Generally, **after** the Plaintiff files the Civil Complaint and Summons forms at the office of the Clerk of Court, the Plaintiff coordinates the Sheriff or Process Server to serve the Defendant. Once the Clerk of Court certifies the Summons and Civil Complaint, and hands it back to the Plaintiff, you may give the Complaint and Summons to the Sheriff or Process server for service on the Defendant.

## 10. How long do I have to serve the Defendant?

Generally, your Summons and Complaint must be served within 90 days after you file the Complaint. (ARCP 4(i)) If you fail to serve the Defendants within 90 days, your Complaint will be dismissed. In complicated cases such as serving a Defendant in a foreign country, ask an attorney for assistance in interpreting the rules, and the kind of service that best fits your case.

## 11. Who must be served?

**All** Defendants named in your Complaint must be served. The Defendants who are not served within the required time limit may be dismissed from your lawsuit.

If your case involves a Defendant from outside Arizona, or outside the U.S.A., or other particular situation, ask an attorney for assistance in interpreting the rules and kind of service that best fits your case.

- If you are suing an individual, serve the person you are suing. If you are suing more than one individual, serve each person you are suing.
- If you are suing a single-owner business (called a "sole proprietorship"), serve the owner.
- If you are suing a partnership under its business name, serve one of the partners. If you are suing a business AND its partners, serve each partner. If you are suing a limited partnership, serve the general partner, general manager, or the agent for service (if there is one).
- If you are suing a corporation, serve an officer of the corporation or the agent for service. You can find out the name of the Arizona corporation's agent for service at the website <http://www.azcc.gov/>.
- If you are suing a city, serve the city clerk or agent authorized to accept service. You can find the address and phone number on the government or the City website.
- If you are suing a county, serve the county clerk or agent authorized to accept service. Check your county's website for the county clerk's address and telephone number.
- If you are suing the State of Arizona, you can serve the state Attorney General's office or agent authorized to accept service. You can also call the Attorney General's office at **(602) 542-5025** for more information.

## 12. Where are my case Documents Served?

The Sheriff, Constable, or Process Server serves the Defendant **where the Defendant lives, or works**, or anywhere else the Defendant can be found. You must give the Sheriff, Constable, or Process server the exact address, and times of day the Defendant will be at the location to be served.

## 13. How do I locate the address of the Defendant I must serve?

Sometimes, finding the Defendant in order to serve him or her involves research. The following steps may be used to find a Defendant.

- **Send a letter** to Defendant's **last** address. Under your return address, write "Return Service Requested. Do Not Forward." If the person filed an address change with the post office, you will get the letter back with a new address. Get more information from the United States Postal Service.
- **Go to the local post office** covering the area for the person's last known address. Ask if the person left a forwarding address.
- **Business License Information:** Contact the Arizona Department of Revenue at Local: **(602) 255-3381** or Toll-free: **(800) 352-4090**, or <https://www.azdor.gov/business/licensingguide.aspx>.
- **Corporation filings:** To check the Defendant's corporate records if applicable, contact the Arizona Corporation Commission at 1200 W. Washington, Phoenix, Az. 85007-2996, **(602) 542-3026** or **1-(800) 345-5819** (Toll Free In-State Only), or website <http://www.azcc.gov/>.
- **Call "411"** for the city or cities where you think the person may live or work. If the person is listed, you may be able to get his or her address. Or you may only get the phone number, but you can use the phone number to try other things to get the address.
- **Search free online telephone directories.** You can do an Internet search to try to locate the person. Some Internet searches are free, and if the person is listed, you can get the phone number or address.
- **Search online on sites that search for people.** You may be able to pay a small fee to an Internet company to give you the address or phone number of the person you are looking for. In that case, the more details you have about the person you are searching for (like date of birth or approximate age), the better your results.
- **Search social networking sites.** You can search popular social network sites where people often list their name, location, and perhaps other information you can find helpful. Or, you may be able to email them through the social network site if you think they may cooperate with you and give you information so you can serve them with legal papers.
- **Use a reverse telephone directory.** If you only know the person's phone number, you can get the address from a reverse telephone directory, which allows you to search by a telephone number to get the name and address of that telephone number's subscriber. BUT the address and name will not be in the reverse directory if the phone number is unlisted.
- **You can also use a reverse phone directory online.** There are several of these. Just search for "reverse phone directory."
- **Military:** If you believe the Defendant may be in the military, the following are military locator services:
  - Air Force: (210) 565-2660
  - Army: (703) 325-8151 or (866) 771-6357
  - Navy: (866) 827-5672
  - Marines: (703) 784-3942 or (800) 268-3710
  - <http://www.uscg.mil/locator/>

- **Contact Defendant's friends or relatives.** If you know any of the person's relatives or friends, contact them for information. Call, write, or e-mail them and ask if they have any contact information for him or her. They may not have all the information but even if they only know what city he or she may have moved to, the information may be helpful to you. You can also explain to them why you need to find this person and even if they do not want to give you the person's contact information, they may be willing to contact him or her on your behalf and give him or her your contact information so he or she can get in touch with you and find out what you want.
- **Past employers.** If you know any of the person's past employers, contact them for information. Ask the last known employer (or even employers before that) if they have any information about the person's whereabouts, even if it is just a city where he or she may have moved, or the name and address of the new employer.
- **Property search.** If the person you are trying to find owns property, search property records online or at the County Recorder's Office; <http://recorder.maricopa.gov/recdocdata/> or **602-506-3535**.
- **The county tax assessor's website.** You can use the owner name, map or address to find a list of the names and addresses of property owners in the county. The tax assessor's office may be able to assist you in your search. <http://mcassessor.maricopa.gov/> or 301 W. Jefferson, Phoenix, Az. or the County Switchboard at **602-506-3011**.
- **Jail or Prison.** If you have any reason to think the person may be in prison or jail, follow these steps:  
For Arizona State Prison: Call the Arizona Department of Corrections, or find it online. You must have either the inmate's CDC number or the inmate's full name and date of birth to get information. Find the phone number for the Arizona Department of Corrections. Find a list of Arizona correctional facilities.
- **For Federal Prison:** Click for the Federal Bureau of Prison's Inmate Locator database. You can search the database using the inmate's first and last name or the inmate's Register Number, DCDC Number, FBI Number, or INS Number. Find a list of federal correctional facilities at the Federal Bureau of Prisons. Fill in whatever information you know (like the state or city you are looking for) and hit "submit."
- **For County Jail:** Call the jail. You can usually find the phone number and address for the jail by calling the county sheriff. Find the contact information for the county sheriffs in Arizona. Then ask about their procedure for serving a Defendant in jail.
- If you do not know if a person is in state or federal prison or county jail, search for the person in state and federal prison and the counties where you think the person might be incarcerated.