

## HELPFUL INFORMATION ON SERVING THE OTHER PARTY

### SERVING THE OTHER PARTY:

- After you have filed your court papers with the Clerk of Superior Court, you must **serve** the papers on the other party.
- **Service** means giving legal notice to the other party that you have filed court papers. You must give a copy of those papers to the other party and show proof to the Court that you have done so.
- This packet explains the steps you must take to serve the other party and what forms you must use.
- By completing the steps for service and providing proof, you tell the court that the other party has received a copy of the court papers you filed. After the other party is served, the other party will be given a time limit to file a Response or Answer. The Response or Answer is the other party's written statement about your request. The Response or Answer tells you, and the court, what the other party wants.

### METHODS OF SERVICE:

Read the choices below to make sure that you are using the correct service packet. Each service packet contains instructions and the forms you may need. Select the method of service that works best for you.

#### 1. **Service of Process WITHIN ARIZONA** (You Know Where the Other Party Lives in Arizona):

- A. Service by Acceptance.** This method requires you to give, or mail, the court papers to the other party and include an **"Acceptance of Service"** form. The other party must sign the **"Acceptance of Service"** form in front of a Notary Public and return it to you. The other party cannot sign the **"Acceptance of Service"** until after you have filed the court papers with the court. The other party's signature on the **"Acceptance of Service"** does **not** mean that he/she agrees with the court papers. It simply means that the other party admits receiving the papers, without being served in person by the sheriff or a process server.

Service is complete at the time the signed **"Acceptance of Service"** is filed with the Clerk of Superior Court. If you choose this method of service, use the **"Acceptance of Service"** forms.

**WARNING:** Do **not** use this method of service if you are the victim of domestic violence, or believe the other party will hurt you, take your money, or take your children. If you believe the other party will become violent or uncooperative when you ask him/her to accept service, use one of the methods of service described below.

**B. Service by Registered Process Server.** This method requires you to hire, and pay, a registered process server to serve the other party with court papers. A process server is a person who will give the papers to the other party at home, work, or other location. This method of service costs more than service by acceptance and requires the process server to find the other party. If you decide to use this method, look under "**PROCESS SERVER**" in the Yellow Pages to find someone who can serve your papers. Service is complete at the time the process server hands the other party the court papers. If you choose this method of service, use the "**Service by Process Server**" form.

**C. Service by Sheriff.** This method requires you to contact the Sheriff's Office in the county where the other party lives to arrange for a Sheriff's deputy to give the other party the court papers. This method requires you to pay a fee to the Sheriff's Office, unless you receive a fee waiver or deferral. The fee waiver or deferral form that Arizona uses is available at the Law Library Resource Center and is only for persons who cannot afford the cost of service and meet certain financial requirements. The fee waiver and deferral form requires you to explain to the Sheriff why your situation requires you to use this method of service.

Service is complete at the time the sheriff or deputy hands the other party the court papers. If you choose this method of service, use the "**Service by Sheriff**" form.

**D. Service by Mail or National Courier Service.** This method requires you to serve the opposing party by depositing, with delivery charges prepaid, the summons and a copy of the pleading and other documents, with the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, signed return receipt. Service and the return, or confirmation of service is performed by the party obtaining service or by that party's attorney.

Service by this method is only effective if the return receipt or signature confirmation is signed by the party receiving the service. Upon receiving from the U.S. Postal Service or other national courier service, 1) the signed return receipt, or 2) a copy of the signature confirmation and cash register receipt or package label of the person being served, the serving party must then file an affidavit with the court. A copy of the affidavit you will need is provided in this packet.

**E. Service of Summons to Incarcerated Person. (Requires 2 exact copies of filed documents)** This method describes service to a person who is incarcerated in an Arizona jail, prison, or a correctional facility. It requires you to send a copy of your filed documents 2 different ways:

1) By "**Signature Confirmation**": You may use the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, with signed return receipt, to serve the incarcerated person in an Arizona jail, prison, or a correctional facility.

- Address a large envelope to the other party with the correct address for the party and the jail, prison, or other facility.
- Take the envelope to the U.S. Post Office, U.P.S., Fed Ex Office or any other national courier service.
- Ask for delivery with signature confirmation. Service in this manner is effective if the return receipt or signature confirmation is signed and returned by an official of the jail, prison, or correctional facility.
- Keep your receipt after you pay for the signature confirmation.

- Wait. The signed return receipt or signature confirmation should be returned to you within a few weeks.
  - Fill out the “Affidavit of Service with Signature Confirmation” form (DR24f). Attach to the form: 1) Payment receipt for the cost of the Return receipt or Signature Confirmation 2) The paper with the returned signature.
  - Photocopy the completed “Affidavit of Service with Signature Confirmation” form (DR24f) with attached proof of signatures.
  - Take or Mail your completed original “Affidavit of Service with Signature Confirmation” form (DR24f) to the Clerk of Superior Court.
  - File the “Affidavit of Service with Signature Confirmation” form (DR24f) with attached proof of signatures. This filing represents sufficient evidence of service.
  - A copy of the affidavit you will need is provided in the packet.
- 2) By **“First Class” U.S. Mail**: Address a large envelope containing the 2<sup>nd</sup> copy of your filed Summons and documents to the inmate in jail or prison (or other facility).
- Be sure to stick the proper “First Class” postage onto the envelope.
  - Mail the stamped “Fist Class” envelope at the U.S. Post Office or a U.S. Mail box.

**F. Other Methods of Service.** There may be other ways to serve the other party. To learn more about these other ways, you should see a lawyer for help.

**2. Service of Process OUTSIDE ARIZONA** (You Know Where the Other Party Lives in the United States but he/she does not live in the State of Arizona.) **NOTE:** If the other party lives outside of the United States, see a lawyer to find out which method of service will work best for you.

**A. Service by Acceptance.** This method requires you to give or mail the court papers to the other party and include an **“Acceptance of Service”** form. The other party must sign the **“Acceptance of Service”** form in front of a Notary Public and return it to you. The other party cannot sign the **“Acceptance of Service”** until after you have filed the court papers with the court. The other party’s signature on the **“Acceptance of Service”** does **not** mean that he/she agrees with the court papers. It simply means that the other party admits receiving the papers, without being served in person by the sheriff or a process server.

Service is complete at the time the signed **“Acceptance of Service”** is filed with the Clerk of Superior Court. If you choose this method of service, use the **“Acceptance of Service”** forms.

**WARNING:** Do not use this method of service if you are the victim of domestic violence, or believe the other party will hurt you, take your money, or take your children.

If you believe the other party will become violent or uncooperative when you ask him/her to accept service, use one of the methods of service described below.

**B. Service by Mail or National Courier Service.** Use this method of service if the other party lives outside the State of Arizona and you know the address. This method requires you to serve the opposing party by depositing, with delivery charges prepaid, the summons and a copy of the pleading and other documents, with the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, signed return receipt.

Service and the return, or confirmation of service is performed by the party obtaining service or by that party's attorney. Service by this method is only effective if the return receipt or signature confirmation is signed by the party to be served. Upon receiving from the U.S. Postal Service or other national courier service, 1) the signed return receipt, or 2) a copy of the signature confirmation and cash register receipt or package label of the person being served, the serving party must then file an affidavit with the court. A copy of the affidavit you will need is provided in this packet.

**C. Service of Summons to Incarcerated Person. (Requires 2 copies of filed documents)** This method describes service to a person who is incarcerated in a jail, prison, or a correctional facility. It requires you to send a copy of your filed documents 2 different ways:

1) By **"Signature Confirmation"**: You may use the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, with signed return receipt, to serve the incarcerated person in an Arizona jail, prison, or a correctional facility.

- Address a large envelope to the other party with the correct address for the party and the jail, prison, or other facility.
- Take the envelope to the U.S. Post Office, U.P.S., Fed Ex Office or any other national courier service.
- Ask for delivery with signature confirmation. Service in this manner is effective if the return receipt or signature confirmation is signed and returned by an official of the jail, prison, or correctional facility.
- Keep your receipt after you pay for the signature confirmation.
- Wait. The signed return receipt or signature confirmation should be returned to you within a few weeks.
- Fill out the "Affidavit of Service with Signature Confirmation" form (DR24f). Attach to the form: 1) Payment receipt for the cost of the Return receipt or Signature Confirmation 2) The paper with the returned signature.
- Photocopy the completed "Affidavit of Service with Signature Confirmation" form (DR24f) with attached proof of signatures.
- Take or Mail your completed original "Affidavit of Service with Signature Confirmation" form (DR24f) to the Clerk of Superior Court.
- File the "Affidavit of Service with Signature Confirmation" form (DR24f) with attached proof of signatures. This filing represents sufficient evidence of service.
- A copy of the affidavit you will need is provided in the packet.

2. By **"First Class" U.S. Mail**: Address a large envelope containing the 2<sup>nd</sup> copy of your filed Summons and documents to the inmate in jail or prison (or other facility).

- Be sure to stick the proper "First Class" postage onto the envelope.
- Mail the stamped "First Class" envelope at the U.S. Post Office or a U.S. Mail box.

**D. Service by Registered Process Server.** This method requires you to hire, and pay, a registered process server to serve the other party with court papers. A process server is a person who will give the papers to the other party at home, work, or other location. This method of service costs more than service by acceptance and requires the process server to find the other party. If you decide to use this method to serve someone out-of-state, look under **"PROCESS SERVER"** on-line or in the Yellow Pages for the state where the other person is located. Service is complete at the time the process server hands the other party the court papers. If you choose this method of service, use the "Affidavit Supporting Out-of-State Service by Process Server" **form**.

**E. Service by Sheriff.** This method requires you to contact the Sheriff's Office in the county of the state where the other party lives to arrange for a Sheriff's deputy to give the other party the court papers. This method requires you to pay a fee to the out-of-state Sheriff's Office, unless you receive a fee waiver or deferral. The fee waiver or deferral form that Arizona uses, is available at the Law Library Resource Center and is only for persons who cannot afford the cost of service and meet certain financial requirements. The fee waiver and deferral form requires you to explain to the Sheriff why your situation requires you to use this method of service.

Service is complete at the time the sheriff or deputy hands the other party the court papers. If you choose this method of out-of-state service, use the **"Affidavit Supporting Out-of-State Service by Process Server"** form.

**F. Other Methods of Service.** There may be other ways to serve the other party. To learn more about these other ways, you should see a lawyer for help.

### 3. Service of Summons when You Cannot Find the Other Party.

**Service by Publication.** You must ask the judge in writing to serve a party using the "publication" method. Service by publication is your "last resort." It might be ordered by the judge **only** if you prove you cannot find where the other person lives, or if you do not have a current address for the other party and have tried, unsuccessfully, to find the other party, or if the other party is evading service. Service by Publication can be expensive and may delay your court case.

1. **YOU MUST FILE A MOTION with the JUDGE requesting PERMISSION to serve by publication,**
2. **In the MOTION, YOU MUST SHOW that you have made REASONABLY DILIGENT EFFORTS to identify the person's current address, or that the person has INTENTIONALLY AVOIDED service of process.**
3. **Examples of REASONABLY DILIGENT EFFORTS may include, but are not limited to:**
  - **Address:** Verifying the Respondent is not at any last known address(es).
  - **Mailing:** MAIL a copy of the documents to be served to the last known address, even if it's your OWN address. (He or she may have put in a mail forwarding order with the Post Office. If it comes back marked "undeliverable," you may present that envelope as proof of your efforts.
  - **Talk:** Talk to the party's friends, family members, current or former employers, coworkers, or anyone else you think may have a current address.
  - **Search:** Search telephone directories and obituaries online or in print (phone book and newspaper).
  - **Corrections:** Check the county jail and the state prisons. (Department of Corrections)
  - **Online:** Search online networking sites such as Facebook, MySpace, Hi5, Friendster, LinkedIn and Plaxo, as well as the internet "people search" sites such as Spokeo.com and ZabaSearch.com.
  - **Email:** If the party has a working email account, you may also consider mailing scanned copies of all the documents to his or her email address.
  - **Hire:** You may also consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the other party.

#### **A. General facts about Service by Publication.**

1. Service by Publication requires that information from the **“Summons”** be published in a newspaper in Maricopa County once a week for four weeks in a row if the other party’s last known address was in Maricopa County or the other party’s last known address was **not** in Arizona.
2. If the other party’s last known address was in Arizona, but **not** in Maricopa County, a copy of the summons must be published in a newspaper in Maricopa County, **and** the county in which the other party’s last known address is.
3. If the other party’s last known address was outside Arizona, a copy of the summons must be published in a newspaper published in the county where the action is pending. Service is complete thirty **(30)** days after the date of the first publication.
4. The newspaper will send you an “Affidavit of Publication” with a copy of the published notice, after the last publish date.
5. You must attach the newspaper “Affidavit of Publication” to the **“Declaration Supporting Publication”** (GN25f) in this packet explaining to the court what you have done to try to find the other party.
6. You then must file both the “Affidavit of Publication” and the **“Declaration Supporting Publication”** at the Clerk of Superior Court.
7. AzRFLP 41 (m) (4) (C) states that a properly filed “Affidavit of Publication” (attached to the Declaration form (GN25f)) is rebuttable evidence of compliance with the requirements of service by publication.

#### **4. TIPS to FIND THE OTHER PARTY:**

- A. Before the Court will allow you to Serve by Publication, you must prove to the Court that you made every reasonable effort to find the other party (or parties) and gave actual notice of this case by personal service of the required documents.** You will be required to state, under penalty of perjury, the steps you took to try to locate the other party and if the Court is not satisfied that you have taken all reasonable steps, your case may be delayed until the Court is satisfied all such steps have been taken. Examples of steps you **MUST** take:
1. Verify the Respondent is not at any last known address(es),
  2. Talk to Respondent’s friends, family members, employer, co-workers former co-workers or employer(s), or anyone else you think may have a current address.
  2. Search telephone directories, the Internet, voter registration records, obituaries, and even the morgue.
  3. You may also have to consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the other party. If you know the other party’s date of birth and/or Social Security Number, this method may work for you.
- B. The Court requires you to file an “Affidavit Supporting Publication” a statement affirming or swearing under oath that you have done everything possible to try to find the other party.**

## WHEN IS A WRITTEN RESPONSE TO THE COURT PAPERS DUE?

- **LOOK AT THE TIMETABLE BELOW.** If the **last day** for the other party to respond falls on a Saturday, Sunday, or legal holiday, you **do not** count that day. The last day you count to determine if you can file the default papers, must be a day when this court is open for business.
- **INCLUDE WEEKENDS AND HOLIDAYS.** In counting the days, include weekends and holidays until you reach the number of days in the Timetable below. If the other party files a written response with the court, you CANNOT proceed BY DEFAULT.

### WHEN RESPONSE is DUE - DEFAULT TIMETABLE

SERVICE BY	COUNT	EVENT
<b>"Acceptance of Service"</b> (in Arizona)	20 days	after the <b>"Acceptance of Service"</b> is filed
Process Server (in Arizona) server	20 days	after other party receives papers from process server
Sheriff (in Arizona)	20 days	after other party receives papers from sheriff
<b>"Acceptance of Service"</b> (out of State)	30 days	after the <b>"Acceptance of Service"</b> is filed
Registered mail (out of State)	30 days	after other party signs green card
Process Server (out of State) server	30 days	after other party receives papers from process server
Sheriff (out of State)	30 days	after other party receives papers from sheriff
Publication (in Arizona)	50 days	after the 1 <sup>st</sup> day of publication
Publication (out of State)	60 days	after the 1 <sup>st</sup> day of publication