

Arizona Long-Arm

Ariz. R. Civ. P.4.2

Rule 4.2 Service of process outside Arizona.

(a) Extraterritorial jurisdiction; personal service outside Arizona. An Arizona state court may exercise personal jurisdiction over a person, whether found within or outside Arizona, to the maximum extent permitted by the Arizona Constitution and the United States Constitution. A party may serve any person located outside Arizona as provided in this rule, and, when service is made, it has the same effect as if personal service were accomplished within Arizona.

(b) Direct service.

(1) Generally. A party may serve process outside Arizona, but within the United States, in the same manner as provided in Rules 4.1 (d) through (j).

(2) Who may serve. Service must be made by a person who is authorized to serve process under the law of the state where service is made.

(3) Effective date of service. Service is complete when made, and the time period under Rule 4.2 (m) starts to run on that date.

(c) Service by mail.

(1) Generally. If a serving party knows the address of the person to be served and the address is outside Arizona but within the United States, the party may serve the person by mailing the summons and a copy of the pleading being served to the person at that address by any form of postage-prepaid mail that requires a signed and returned receipt.

(2) Affidavit of service. When the post office returns the signed receipt, the serving party must file an affidavit stating:

(A) The person being served is known to be located outside Arizona but within the United States;

(B) The serving party mailed the summons and a copy of the pleading or other request for relief to the person by any form of mail described in rule 4.2 (c)(1);

(C) The serving party received a signed return receipt, which is attached to the affidavit and which indicates that the person received the described documents; and

(D) The date of receipt by the person being served.

(d) Waiver of service.

(1) Requesting a waiver. An individual, corporation, or association that is subject to service under Rule 4.2 (b), (c), (h), (i), or (k) has a duty to avoid unnecessary expense in serving the

summons. The plaintiff may notify the defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(A) Be in writing and be addressed to the defendant in accordance with Rule 4.2 (b), (c), (h), (i), or (k), as applicable;

(B) Name the court where the pleading being served was filed;

(C) Be accompanied by a copy of the pleading being served, two copies of a waiver form set forth in Rule 84, Form 2, and a prepaid means for returning the completed form;

(D) Inform the defendant, using the text provided in Rule 84, Form 1, of the consequences of waiving and not waiving service;

(E) State the date when the request is sent;

(F) Give the defendant a reasonable time to return the waiver, which must be at least 30 days after the request was sent, or 60 days after it was sent if it was sent outside any judicial district of the United States; and

(G) Be sent by first-class mail or other reliable means.

(2) Failure to waive. If a defendant located within the United States fails without good cause to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) The expenses later incurred in making service; and

(B) The reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(3) Time to answer after a waiver. A defendant who, before being served with process, timely returns a waiver need not serve an answer or otherwise respond to the pleading being served until 60 days after the request was sent, or 90 days after it was sent if it was sent outside any judicial district of the United States.

(4) Results of filing a waiver. When the plaintiff files an executed waiver, proof of service is not required and, except for the additional time in which a defendant may answer or otherwise respond as provided in Rule 4.2 (d)(3), these rules apply as if a summons and the pleading being served had been served at the time of filing the waiver.

(5) Jurisdiction and venue not waived. Waiving service of a summons does not waive any objection to personal jurisdiction or venue.

(e) Service on a nonresident under the nonresident motorist act.

(1) Generally. In an action involving the operation of a motor vehicle in Arizona, a party may serve a nonresident—including a minor, an incapacitated person, or an adult in need of protection—as provided in A.R.S. § 28-2327.

(2) Effective date of service. If service is made under A.R.S. § 28-2327, service is complete 30 days after:

(A) The filing of the defendant's return receipt and the serving party's affidavit of compliance, as provided in A.R.S. § 28-2327(A)(1); or

(B) The filing of the officer's return of personal service, as provided in A.R.S. § 28-2327(A)(2).

(3) Effect. Within 30 days after completion of service, the defendant must answer in the same manner as if the defendant had been personally served with a summons in the county in which the action is pending.

(f) Service by publication.

(1) Generally. If a party shows that the service provided by Rule 4.2(b) through 4.2(e) is impracticable, the court may, on motion and without notice to the person to be served, order that service be accomplished by publication. A serving party may initiate the service by publication procedure described in Rule 4.2(f)(2) prior to moving for such an order or while the motion is pending. The court may permit service by publication, in such manner and form as the court may direct, if:

(A) The last-known address of the person to be served is outside Arizona but:

(i) The serving party, despite reasonably diligent efforts, has been unable to determine the person's current address; or the person to be served; or not been able to ascertain the person's current address; or

(ii) The person has intentionally avoided service of process;

(B) Service by publication is the best means practicable in the circumstances for providing notice to the person of the action's commencement; and

(C) the motion is supported by affidavit that sets forth the serving party's reasonably diligent efforts to serve the person.

(2) Procedure.

(A) Generally. Service by publication is accomplished by publishing the summons and a statement describing how a copy of the pleading being served may be obtained at least once a week for 4 successive weeks in a newspaper published in the county where the action is pending.

(B) Who may serve. Service by publication may be made by the serving party, its counsel, or anyone else authorized to serve process under Rule 4(d).

(C) Alternative newspapers. If no newspaper is published in a county where publication is required, the serving party must publish the summons and statement in a newspaper in an adjoining county.

(D) Effective date of service. Service is complete 30 days after the summons and statement is

first published in all newspapers where publication is required.

(3) Mailing. If the serving party knows the address of the person being served, it must, on or before the date of first publication, mail to the person the summons and a copy of the pleading being served, postage prepaid.

(4) Return.

(A) Required affidavit. The party or person making service must prepare, sign and file an affidavit describing the manner and dates of the publication and mailing, and the circumstances warranting service by publication. If no mailing was made because the serving party did not know the current address of the person being served, the affidavit must state that fact.

(B) Accompanying publication. A printed copy of the publication must accompany the affidavit.

(C) Effect. An affidavit that complies with these requirements constitutes prima facie evidence of compliance with the requirements for service by publication.

(g) Service by publication on an unknown heir in a real property action. An unknown heir of a decedent may be sued as an unknown heir and be served by publication in the county where the action is pending, using the procedures provided in Rule 4.2 (f), if:

(1) the action in which the heir will be served is for the foreclosure of a mortgage on real property or is some other type of action involving title to real property; and

(2) the heir must be a party to the action to permit a complete determination of the action.

(h) Serving a corporation, partnership or other unincorporated association located outside Arizona but within the United States. If a corporation, partnership, or other unincorporated association is located outside Arizona but within the United States, it may be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant.

(i) Serving an Individual in a Foreign Country. Unless federal law provides otherwise, an individual—other than a minor, an incapacitated person, an adult in need of protection, or a person whose waiver has been filed under Rule 4.2 (d)—may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as set forth by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request;

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the pleading being served to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(D) by other means not prohibited by international agreement, as the court orders.

(j) Serving a minor, incapacitated person, or adult in need of protection in a foreign country.

A party may serve the following persons, if not located in a place not within any judicial district of the United States, in the manner set forth in Rule 4.2 (i)(2)(A) or

(B) or by such means as the court may otherwise order: a minor, a minor with a guardian or conservator, or an adult in need of protection.

(k) Serving a corporation, partnership, or other incorporated association in a foreign country. Unless federal law provides otherwise or the defendant's waiver has been filed under Rule 4.2 (d), a corporation, partnership, or other unincorporated association that has the legal capacity to be sued may be served at a place not within any judicial district of the United States by delivering a copy of the summons and pleading being served in the manner set forth in Rule 4.2 (i) for serving an individual, except personal delivery under Rule 4.2 (i)(2)(C)(i).

(l) Serving a foreign state. A foreign state or one of its political subdivisions, agencies, or instrumentalities must be served in accordance with 28 U.S.C. § 1608.