

Arizona Long-Arm

Ariz. R. Civ. P. 4.2

Rule 4.2. Service of process outside the state.

(a) Extraterritorial jurisdiction; personal service out of state. A court of this state may exercise personal jurisdiction over parties, whether found within or outside the state, to the maximum extent permitted by the Constitution of this state and the Constitution of the United States. Service upon any such party located outside the state may be made as provided in this Rule 4.2, and when so made shall be of the same effect as personal service within the state.

(b) Direct service. Service of process may be made outside the state but within the United States in the same manner provided in Rule 4.1(d) -- (1) of these Rules by a person authorized to serve process under the law of the state where such service is made. Such service shall be complete when made and time for purposes of Rule 4.2(m) shall begin to run at that time, provided that before any default may be had on such service, there shall be filed an affidavit of service showing the circumstances warranting the utilization of this procedure and attaching an affidavit of the process server showing the fact and circumstances of the service.

(c) Service by mail; return. When the whereabouts of a party outside the state is known, service may be made by depositing the summons and a copy of the pleading being served in the post office, postage prepaid, to be sent to the person to be served by any form of mail requiring a signed and returned receipt. Service by mail pursuant to this subpart and the return thereof may be made by the party procuring service or by that party's attorney. Upon return through the post office of the signed receipt, the serving party shall file an affidavit with the court stating (1) that the party being served is known to be located outside the state, (2) that the summons and a copy of the pleading were dispatched to the party being served; (3) that such papers were in fact received by the party as evidence by the receipt, a copy of which shall be attached to the affidavit; and (4) the date of receipt by the party being served and the date of the return of the receipt to the sender. This affidavit shall be prima facie evidence of personal service of the summons and the pleading and service shall be deemed complete and time shall begin to run for the purposes of Rule 4.2(m) of these Rules from the date of receipt by the party being served, provided that no default may be had on such service until such an affidavit has been filed.

(d) Waiver of service; duty to save costs of service; request to waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of such defendant.

(2) An individual, corporation or association that is subject to service under paragraph (b), (c), (h), (i) or (k) of this Rule 4.2 and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of the summons. The notice and request:

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

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date the notice is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proofs of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under paragraph (b), (c), (h), (i) or (k) of this Rule 4.2, together with the costs, including a reasonable attorney's fees, of any motion required to collect the costs of service.

(e) Service under nonresident motorist act. In an action involving operation of a motor vehicle in this state, a nonresident minor, insane or incompetent person may be served in the manner provided by A.R.S. § § 28-2321 through 28-2327 for service upon a nonresident in such cases as if that person were sui juris. When service of a copy of the summons and complaint is made pursuant to A.R.S. § 28-2327, the service shall be deemed complete thirty days after filing defendant's return receipt and plaintiff's affidavit of compliance, as required by A.R.S. § 28-2327, subsection A, paragraph 1, or, in case of personal service out of the state under A.R.S. § 28-2327, subsection A, paragraph 2, thirty days after filing the officer's return of such personal service. The defendant shall appear and answer within thirty days after completion of such service in the same manner and under the same penalties as if the defendant had been personally served with a summons within the county in which the action is pending.

(f) Service by publication; return. Where the person to be served is one whose present residence is unknown but whose last known residence was outside the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks in a newspaper published in the county where the action is

pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons and a copy of the pleading being served, postage prepaid, directed to that person at that person's place of residence.

Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of publication and mailing, and the circumstances warranting utilization of the procedure authorized by this subpart which shall be prima facie evidence of compliance herewith. A printed copy of the publication shall accompany the affidavit. If the residence of the person to be served is unknown, and for that reason no mailing was made, the affidavit shall so state.

(g) Service by publication; unknown heirs in real property actions. When in an action for the foreclosure of a mortgage on real property or in any action involving title to real property, it is necessary for a complete determination of the action that the unknown heirs of a deceased person be made parties, they may be sued as the unknown heirs of the decedent, and service of a summons may be made on them by publication in the county where the action is pending, as provided in subpart (e) of this Rule.

(h) Service of summons upon corporations, partnerships unincorporated associations located outside Arizona but within the United States. In case of a corporation or partnership or unincorporated association located outside the state but within the United States, service under this Rule shall be made on one of the persons specified in Rule 4.1(k).

(i) Service upon individuals in a foreign country. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

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

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

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

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the party to be served personally of a copy of the summons and of the pleading; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(j) Service of summons upon minors and incompetent persons in a foreign country. Service upon a minor, a minor with a guardian or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (i) of this Rule 4.2, or by such means as the court may direct.

(k) Service of summons upon corporations and associations in a foreign country. Unless otherwise provided by federal law, service upon a corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (i) of this Rule 4.2, except personal delivery as provided in paragraph (2)(C)(i) thereof.

(l) Service of summons upon a foreign state or political subdivision thereof. Service of a summons upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

(m) Time for appearance after service outside state. Where service of the summons and of a copy of a pleading requiring service by summons is made outside the state by one of the means authorized by this Rule 4.2, other than subsection (d), the person served shall appear and answer within thirty days after completion thereof in the same manner and under the same penalties as if that person had been personally served with a summons within the county in which the action is pending.