



Service Fact Sheet

Introduction

When you sue a person, company, or the government, you must give notice to the other side that you have started the legal process. Also, if you are already involved in a case and file papers with the court, you are required to give the other side notice of the paperwork that you have filed.

The legal way to give notice is to have the other side served with a copy of the paperwork that you filed with the court. This is called service of process.

Service of process means that the other side must get copies of any papers that you file with the court. In service of process, a third person (not you) is the one who actually delivers the paperwork to the other person (or people) involved in the case. The person who gives copies of court papers on your behalf is called a server or process server.

Until the other side has been properly served, the judge cannot make any permanent orders or judgments.

Timeline

There is a time limit for service. You must give service to the defendant within 120 days (approximately four months) after filing your court forms. If you do not, the judge can dismiss your case.

Completing Service

Service can be completed in a few ways:

- personal service: a server gives the court papers to the party being served
- service by mail: you mail the documents to the other party
- service by publication: you do not know how to find the other party, so you publish the summons and complaint in a newspaper in the area where the other party is likely to be

If the defendant is in jail, prison, or another correctional facility, you must give a copy of the summons and complaint to an administrator of the institution. This person will give the copy to the defendant.

If you do not know exactly where the defendant lives or where they are, you still must prove to the judge you completed service. This can be done through “service by warning order” or “service by publication.” This warning order must be published weekly for two consecutive weeks in a newspaper that circulates in the county where you filed the court forms.

Information about service by publication, or warning order, can be found on the fact sheets page at arlegalservices.org.

If the court granted your fee waiver request (also known as *in forma pauperis*), the court clerk can post the warning order for 30 days for you.

Types of Service

Personal Service

This means that someone (who is not involved in the case) must personally deliver the court documents to the other side.

Personal service must be made by one of the following:

- a sheriff or deputy of the county where service is to be made
- any person appointed by the court to serve a summons
- any person authorized to serve process by the state where the service will be made

To complete personal service, you give a copy of the court documents to the server. The server gives the court documents to the party being served. It may be at the party's home, work, or anywhere on the street.

The server must identify the party being served, hand the legal papers to them, and inform them that the papers being given are court papers. If the party or person being served does not want to take the papers, the papers can be left on the ground in front of them. If they take the papers and tear them up or throw them away, service is still considered to be valid. The server then fills out an Affidavit of Proof of Service. This document details when, where, and how (in person) the papers were served. The server signs the Proof of Service and returns it to you to file in court. This personal service is complete the day that the papers are served.



Service by Mail

This means you mail the court documents to the other party. You mail the papers to the other party by certified mail, return receipt requested. If the party being served is a person, the papers can be mailed to their home or mailing address. If you are giving notice to a business, the papers must be mailed to the owner(s) at the business' main office. If the business has an agent for service, then the papers should be mailed to the agent.

You must fill out an Affidavit of Proof of Service. When completing the form, be sure to state who the papers were mailed to, to what address, when, how (by first class mail), and where the papers were mailed from. You then sign the Proof of Service and file it with the court. Service by mail is complete upon mailing.

Service by Publication

This means that you publish the summons and complaint in a newspaper of general circulation in the area where the other side is likely to be. You must ask the court's permission to do this.

This type of service is usually used when you do not know how to find the other side and do not have an address or workplace for them.

Before the court will give you permission to serve by publication, you will have to prove to the court that you tried as hard as possible to find the other side.

The court requires that you at least try by:

- finding the other person at their last known address or last known work address
- mailing letters to the last known address with a forwarding address requested
- calling the other side's friends, family, or ex-coworkers to ask where they live
- looking for the other side in the phone book for any city where they are likely to be
- searching the Internet for the person

If the court grants your request to serve by publication, the judge will sign your proposed order. You must publish your court documents in a newspaper of general circulation in the area for two straight weeks.

If you are allowed to serve by publication, you must still send service by first-class mail the party's last known address. Remember to keep a copy of the forms for yourself.

Proof of Service

You must prove to the judge that you have completed service and give this proof to the court clerk. If you do not make proof of service, the judge can dismiss your case.

If service was made by the county sheriff or the sheriff's deputy, then you can get proof by getting a certificate of service or return.

If you made service by mail, then you must attach the return receipt to an "affidavit of service." This affidavit is a sworn statement that you file with the court that says that you have provided service to the defendant.

This proof must be given to the court clerk within 120 days (approximately four months) after filing your court forms. If it is not, your case can be dismissed.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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