

1 **Rule 4. Process.**

2 **(a) Signing of summons.** The summons ~~shall~~must be signed and issued by the plaintiff or the  
3 plaintiff's attorney. Separate summonses may be signed and ~~served~~issued.

4 **(b)(i) Time of service.** ~~In~~Unless the summons and complaint are accepted, a copy of the summons  
5 and complaint in an action commenced under Rule 3(a)(1), the summons together with a copy of the  
6 complaint shall must be served no later than 120 days after ~~the filing of the complaint is filed,~~ unless the  
7 court orders a different period under Rule 6. ~~unless the~~ The court may allow a longer period of time for  
8 good cause shown. If the summons and complaint are not timely served, the action ~~shall~~against the  
9 unserved defendant willmay be dismissed, without prejudice on ~~application~~ motion of any party or ~~upon~~  
10 on the court's own initiative.

11 (b)(ii) ~~In any action brought against two or more defendants on which service has been timely~~  
12 ~~obtained upon one of them,~~

13 (b)(ii)(A) ~~the plaintiff may proceed against those served, and~~

14 (b)(ii)(B) ~~the others may be served or appear at any time prior to trial.~~

15 **(c) Contents of summons.**

16 (c)(1) The summons ~~shall~~must:

17 (c)(1)(A) contain the name and address of the court, the address of the court, the names of  
18 the parties to the action, and the county in which it is brought; ~~It shall~~

19 (c)(1)(B) be directed to the defendant;

20 (c)(1)(C) state the name, address and telephone number of the plaintiff's attorney, if any, and  
21 otherwise the plaintiff's address and telephone number; ~~It shall~~

22 (c)(1)(D) state the time within which the defendant is required to answer the complaint in  
23 writing; ~~and shall~~

24 (c)(1)(E) notify the defendant that in case of failure to ~~do so~~ answer in writing, judgment by  
25 default will be ~~rendered~~ entered against the defendant; ~~It shall~~ and

26 (c)(1)(F) state either that the complaint is on file with the court or that the complaint will be  
27 filed with the court within ~~ten~~ 10 days ~~of~~ after service.

28 (c)(2) If the action is commenced under Rule 3(a)(2), the summons ~~shall~~must also:

29 (c)(2)(A) state that the defendant need not answer if the complaint is not filed within 10 days  
30 after service; and ~~shall~~

31 (c)(2)(B) state the telephone number of the clerk of the court where the defendant may call at  
32 least 14 days after service to determine if the complaint has been filed.

33 (c)(3) If service is ~~made~~ by publication, the summons ~~shall~~must also briefly state the subject  
34 matter and the sum of money or other relief demanded, and that the complaint is on file with the  
35 court.

36 **(d) Methods of service.** The summons and complaint may be served in any state or judicial district  
 37 of the United States. Unless waived in writing service is accepted, service of the summons and complaint  
 38 shall must be by one of the following methods:

39 **(d)(1) Personal service.** ~~The summons and complaint may be served in any state or judicial~~  
 40 ~~district of the United States by the sheriff or constable or by the deputy of either, by a United States~~  
 41 ~~Marshal or by the marshal's deputy, or by any other person 18 years of age or older at the time of~~  
 42 ~~service and not a party to the action or a party's attorney. If the person to be served refuses to accept~~  
 43 ~~a copy of the process summons and complaint, service shall be is~~ sufficient if the person serving  
 44 ~~them same shall states~~ the name of the process and offers to deliver a copy thereof them. Personal  
 45 service ~~shall must~~ be made as follows:

46 (d)(1)(A) Upon any individual other than one covered by ~~sub~~paragraphs (d)(1)(B), (d)(1)(C) or  
 47 ~~(d)(1)(D) below,~~ by delivering a copy of the summons and ~~the~~ complaint to the individual  
 48 personally, or by leaving ~~a copy them~~ at the individual's dwelling house or usual place of abode  
 49 with ~~some a~~ person of suitable age and discretion who resides there residing, or by delivering a  
 50 ~~copy of the summons and the complaint them~~ to an agent authorized by appointment or by law to  
 51 receive ~~service of~~ process;

52 (d)(1)(B) Upon ~~an infant (being a person a minor under 14 years) old~~ by delivering a copy of  
 53 the summons and ~~the~~ complaint to the ~~infant minor~~ and also to the ~~infant's minor's~~ father, mother,  
 54 or guardian or, if none can be found within the state, then to any person having the care and  
 55 control of the ~~infant minor,~~ or with whom the ~~infant minor~~ resides, or ~~in whose service by whom~~  
 56 the ~~infant minor~~ is employed;

57 (d)(1)(C) Upon an individual judicially declared to be incapacitated, of unsound mind, or  
 58 incapable of conducting the ~~person's individual's~~ own affairs, by delivering a copy of the  
 59 summons and ~~the~~ complaint to the ~~person individual~~ and to the guardian or conservator of the  
 60 individual if one has been appointed; the ~~person's individual's~~ legal representative if one has  
 61 been appointed, and, in the absence of ~~such a guardian, conservator, or legal representative,~~ to  
 62 the ~~individual person,~~ if any, who has care, custody, or control of the ~~person individual;~~

63 (d)(1)(D) Upon an individual incarcerated or committed at a facility operated by the state or  
 64 any of its political subdivisions, by delivering a copy of the summons and ~~the~~ complaint to the  
 65 person who has the care, custody, or control of the individual ~~to be served,~~ or to that person's  
 66 designee or to the guardian or conservator of the individual ~~to be served~~ if one has been  
 67 appointed, ~~who shall, in any case,~~ The person to whom the summons and complaint are  
 68 delivered must promptly deliver them process- to the individual ~~served;~~

69 (d)(1)(E) Upon ~~any a~~ corporation not ~~herein~~ otherwise provided for in this rule, ~~upon a limited~~  
 70 liability company, a partnership, or ~~upon~~ an unincorporated association ~~which is~~ subject to suit  
 71 under a common name, by delivering a copy of the summons and ~~the~~ complaint to an officer, a  
 72 managing or general agent, or other agent authorized by appointment or ~~by~~ law to receive ~~service~~

73 | ~~of process and, if the agent is one authorized by statute to receive service and the statute so~~  
74 | ~~requires,~~ by also mailing a copy of the summons and ~~the~~ complaint to the defendant, if the agent  
75 | is one authorized by statute to receive process and the statute so requires. If no ~~such~~ officer or  
76 | agent can be found within the state, and the defendant has, or advertises or holds itself out as  
77 | having, ~~an office or a~~ place of business within the state or elsewhere, or does business within this  
78 | state or elsewhere, then upon the person in charge of ~~such office or the~~ place of business;

79 | (d)(1)(F) Upon an incorporated city or town, by delivering a copy of the summons and ~~the~~  
80 | complaint as required by statute, or in the absence of a controlling statute, to the recorder;

81 | (d)(1)(G) Upon a county, by delivering a copy of the summons and ~~the~~ complaint as required  
82 | by statute, or in the absence of a controlling statute, to the county clerk ~~of such county~~;

83 | (d)(1)(H) Upon a school district or board of education, by delivering a copy of the summons  
84 | and ~~the~~ complaint as required by statute, or in the absence of a controlling statute, to the  
85 | superintendent or ~~business~~ administrator of the board;

86 | (d)(1)(I) Upon an irrigation or drainage district, by delivering a copy of the summons and ~~the~~  
87 | complaint as required by statute, or in the absence of a controlling statute, to the president or  
88 | secretary of its board;

89 | (d)(1)(J) Upon the state of Utah or its department or agency, ~~in such cases as by law are~~  
90 | ~~authorized to be brought against the state,~~ by delivering a copy of the summons and ~~the~~  
91 | complaint to the attorney general and any other person or agency required by statute to be  
92 | served; and

93 | (d)(1)(K) Upon a ~~department or agency of the state of Utah,~~ or upon any a public board,  
94 | commission or body, ~~subject to suit,~~ by delivering a copy of the summons and ~~the~~ complaint as  
95 | required by statute, or in the absence of a controlling statute, to any member of its governing  
96 | board, or to its executive employee or secretary.

97 | **(d)(2) Service by mail or commercial courier service.**

98 | (d)(2)(A) The summons and complaint may be served upon an individual other than one  
99 | covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial courier service in any state or  
100 | judicial district of the United States provided the defendant signs a document indicating receipt.

101 | (d)(2)(B) The summons and complaint may be served upon an entity covered by paragraphs  
102 | (d)(1)(E) through (d)(1)(I) by mail or commercial courier service in any state or judicial district of  
103 | the United States provided defendant's agent authorized by appointment or by law to receive  
104 | service of process signs a document indicating receipt.

105 | (d)(2)(C) Service by mail or commercial courier service shall be complete on the date the  
106 | receipt is signed as provided by this rule.

107 | **(d)(3) Acceptance of service.**

108 | **(d)(3)(A) Duty to avoid expenses.** All parties have a duty to avoid unnecessary expenses of  
109 | servicing the summons and complaint.

110 **(d)(3)(B) Acceptance of service by party.** Unless the person to be served is a minor under  
 111 14 years old or an individual judicially declared to be incapacitated, of unsound mind, or  
 112 incapable of conducting the individual's own affairs, a party may accept service of a summons  
 113 and complaint by signing a document that acknowledges receipt of the summons and complaint.

114 **(d)(3)(C) Acceptance of service by attorney for party.** An attorney may accept service of a  
 115 summons and complaint on behalf of the attorney's client by signing a document that acknowledges  
 116 receipt of the summons and complaint.

117 **(d)(3)(D) Effect of acceptance, proof of acceptance.** A person who accepts service of the  
 118 summons and complaint retains all defenses and objections, except for adequacy of service. Service  
 119 is effective on the date of the acceptance. Filing the acceptance of service with the court constitutes  
 120 proof of service under Rule 4(e).

121 **(d)(34) Service in a foreign country.** Service in a foreign country ~~shall~~ must be made as follows:

122 (d)(34)(A) by any internationally agreed means reasonably calculated to give notice, such as  
 123 those means authorized by the Hague Convention on the Service Abroad of Judicial and  
 124 Extrajudicial Documents;

125 (d)(34)(B) if there is no internationally agreed means of service or the applicable international  
 126 agreement allows other means of service, provided that service is reasonably calculated to give  
 127 notice:

128 (d)(34)(B)(i) in the manner prescribed by the law of the foreign country for service in that  
 129 country in an action in any of its courts of general jurisdiction;

130 (d)(34)(B)(ii) ~~as directed by the foreign authority in response to a letter rogatory or~~ letter  
 131 of request issued by the court; or

132 (d)(34)(B)(iii) unless prohibited by the law of the foreign country, by ~~delivery to the~~  
 133 ~~individual personally of a copy of~~ delivering a copy of the summons and ~~the complaint to the~~  
 134 individual personally or by any form of mail requiring a signed receipt, ~~to be~~ addressed and  
 135 dispatched by the clerk of the court to the party to be served; or

136 (d)(34)(C) by other means not prohibited by international agreement as may be directed by  
 137 the court.

138 **(d)(45) Other service.**

139 (d)(45)(A) ~~Where~~ If the identity or whereabouts of the person to be served are unknown and  
 140 cannot be ascertained through reasonable diligence, ~~where~~ if service upon all of the individual  
 141 parties is impracticable under the circumstances, or ~~where~~ if there ~~exists~~ is good cause to believe  
 142 that the person to be served is avoiding service ~~of process~~, the party seeking service ~~of process~~  
 143 may file a motion ~~supported by affidavit requesting an order allowing to allow~~ service by  
 144 ~~publication or by some other means. The~~ An affidavit or declaration supporting affidavit shall the  
 145 motion must set forth the efforts made to identify, locate, ~~or and~~ serve the party ~~to be served~~, or  
 146 the circumstances ~~which that~~ make it impracticable to serve all of the individual parties.

147 (d)(45)(B) If the motion is granted, the court ~~shall will~~ order service of ~~process the complaint~~  
148 ~~and summons~~ by means reasonably calculated, under all the circumstances, to apprise the  
149 interested ~~named~~ parties of the pendency of the action to the extent reasonably possible or  
150 practicable. The court's order ~~shall also must~~ specify the content of the process to be served and  
151 the event or events ~~as of which service shall be deemed complete~~ upon which service is  
152 complete. Unless service is by publication, a copy of the court's order ~~shall must~~ be served upon  
153 the defendant with the process specified by the court.

154 (d)(45)(C) ~~In any proceeding where~~ If the summons is required to be published, the court  
155 shall, upon the request of the party applying for ~~publication~~ service by other means, must  
156 designate the newspaper in which publication shall be made. The newspaper selected shall be a  
157 newspaper of general circulation in the county ~~where such in which~~ publication is required to be  
158 made.

159 **(e) Proof of service.**

160 (e)(1) ~~If service is not waived, the~~ The person effecting service ~~shall must~~ file proof with the court.  
161 The proof of service ~~must state of service stating~~ the date, place, and manner of service, including a  
162 copy of the summons. ~~Proof of service made pursuant to paragraph (d)(2) shall include a receipt~~  
163 ~~signed by the defendant or defendant's agent authorized by appointment or by law to receive service~~  
164 ~~of process. If service is made by a person other than by an attorney, the sheriff, or constable, or by~~  
165 ~~the deputy of either, by a United States Marshal, or by the sheriff's, constable's or marshal's deputy,~~  
166 the proof of service ~~shall must~~ be made by affidavit or declaration under penalty of Utah Code Section  
167 78B-5-705.

168 (e)(2) Proof of service in a foreign country ~~shall must~~ be made as prescribed in these rules for  
169 service within this state, or by the law of the foreign country, or by order of the court.

170 (e)(3) ~~When service is made pursuant to paragraph (d)(34)(C),~~ proof of service ~~shall must~~ include  
171 a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the  
172 court.

173 (e)(34) Failure to ~~make file~~ proof of service does not affect the validity of the service. The court  
174 may allow proof of service to be amended.

175 **(f) Waiver of service; Payment of costs for refusing to waive.**

176 (f)(1) A plaintiff may request a defendant subject to service under paragraph (d) to waive service  
177 of a summons. The request shall be mailed or delivered to the person upon whom service is  
178 authorized under paragraph (d). It shall include a copy of the complaint, shall allow the defendant at  
179 least 21 days from the date on which the request is sent to return the waiver, or 30 days if addressed  
180 to a defendant outside of the United States, and shall be substantially in the form of the Notice of  
181 Lawsuit and Request for Waiver of Service of Summons set forth in the Appendix of Forms attached  
182 to these rules.

183 ~~(f)(2) A defendant who timely returns a waiver is not required to respond to the complaint until 45~~  
184 ~~days after the date on which the request for waiver of service was mailed or delivered to the~~  
185 ~~defendant, or 60 days after that date if addressed to a defendant outside of the United States.~~

186 ~~(f)(3) A defendant who waives service of a summons does not thereby waive any objection to~~  
187 ~~venue or to the jurisdiction of the court over the defendant.~~

188 ~~(f)(4) If a defendant refuses a request for waiver of service submitted in accordance with this rule,~~  
189 ~~the court shall impose upon the defendant the costs subsequently incurred in effecting service.~~

190 [Advisory Committee Notes](#)

191 [2016 Amendments](#)

192 [Paragraph \(d\)\(3\) contemplates delivery and acceptance of the summons and complaint by various](#)  
193 [methods, including electronic delivery and signature. Elimination of the express procedure for seeking](#)  
194 [waiver of service under paragraph \(f\) does not eliminate the parties' ability to agree to accept service](#)  
195 [under paragraph \(d\)\(3\).](#)