

1 **Rule 4. Process.**

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

4 **(b) Time of service.** Unless the summons and complaint are accepted, a copy of the
5 summons and complaint in an action commenced under Rule 3(a)(1) must be served no
6 later than 120 days after the complaint is filed, unless the court orders a different period
7 under Rule 6. If the summons and complaint are not timely served, the action against
8 the unserved defendant may be dismissed without prejudice on motion of any party or
9 on the court's own initiative.

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

11 (1) The summons must:

12 (A) contain the name and address of the court, the names of the parties to the
13 action, and the county in which it is brought;

14 (B) be directed to the defendant;

15 (C) state the name, address and telephone number of the plaintiff's attorney, if
16 any, and otherwise the plaintiff's address and telephone number;

17 (D) state the time within which the defendant is required to answer the
18 complaint in writing;

19 (E) notify the defendant that in case of failure to answer in writing, judgment by
20 default ~~will~~ may be entered against the defendant;

21 (F) state either that the complaint is on file with the court or that the complaint
22 will be filed with the court within 10 days after service; and

23 (G) include the bilingual notice set forth in the form summons approved by the
24 Utah Judicial Council.

25 (2) If the action is commenced under Rule 3(a)(2), the summons must also:

26 (A) state that the defendant need not answer if the complaint is not filed within
27 10 days after service; and

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

30 (3) If service is by publication, the summons must also briefly state the subject
31 matter and the sum of money or other relief demanded, and that the complaint is on
32 file with the court.

33 **(d) Methods of service.** The summons and complaint may be served in any state or
34 judicial district of the United States. Unless service is accepted, service of the summons
35 and complaint must be by one of the following methods:

36 **(1) Personal service.** The summons and complaint may be served by any person 18
37 years of age or older at the time of service and not a party to the action or a party's
38 attorney. If the person to be served refuses to accept a copy of the summons and
39 complaint, service is sufficient if the person serving them states the name of the
40 process and offers to deliver them. Personal service must be made as follows:

41 (A) Upon any individual other than one covered by paragraphs (d)(1)(B),
42 (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint to the
43 individual personally, or by leaving them at the individual's dwelling house or
44 usual place of abode with a person of suitable age and discretion who resides
45 there, or by delivering them to an agent authorized by appointment or by law to
46 receive process;

47 (B) Upon a minor under 14 years old by delivering a copy of the summons and
48 complaint to a parent or guardian of the minor or, if none can be found within
49 the state, then to any person having the care and control of the minor, or with
50 whom the minor resides, or by whom the minor is employed;

51 (C) Upon an individual judicially declared to be incapacitated, of unsound mind,
52 or incapable of conducting the individual's own affairs, by delivering a copy of

53 the summons and complaint to the individual and to the guardian or conservator
54 of the individual if one has been appointed; the individual's legal representative
55 if one has been appointed, and, in the absence of a guardian, conservator, or legal
56 representative, to the person, if any, who has care, custody, or control of the
57 individual;

58 (D) Upon an individual incarcerated or committed at a facility operated by the
59 state or any of its political subdivisions, by delivering a copy of the summons
60 and complaint to the person who has the care, custody, or control of the
61 individual, or to that person's designee or to the guardian or conservator of the
62 individual if one has been appointed. The person to whom the summons and
63 complaint are delivered must promptly deliver them to the individual;

64 (E) Upon a corporation not otherwise provided for in this rule, a limited liability
65 company, a partnership, or an unincorporated association subject to suit under a
66 common name, by delivering a copy of the summons and complaint to an officer,
67 a managing or general agent, or other agent authorized by appointment or law to
68 receive process and by also mailing a copy of the summons and complaint to the
69 defendant, if the agent is one authorized by statute to receive process and the
70 statute so requires. If no officer or agent can be found within the state, and the
71 defendant has, or advertises or holds itself out as having, a place of business
72 within the state or elsewhere, or does business within this state or elsewhere,
73 then upon the person in charge of the place of business;

74 (F) Upon an incorporated city or town, by delivering a copy of the summons and
75 complaint as required by statute, or in the absence of a controlling statute, to the
76 recorder;

77 (G) Upon a county, by delivering a copy of the summons and complaint as
78 required by statute, or in the absence of a controlling statute, to the county clerk;

79 (H) Upon a school district or board of education, by delivering a copy of the
80 summons and complaint as required by statute, or in the absence of a controlling
81 statute, to the superintendent or administrator of the board;

82 (I) Upon an irrigation or drainage district, by delivering a copy of the summons
83 and complaint as required by statute, or in the absence of a controlling statute, to
84 the president or secretary of its board;

85 (J) Upon the state of Utah or its department or agency by delivering a copy of the
86 summons and complaint to the attorney general and any other person or agency
87 required by statute to be served; and

88 (K) Upon a public board, commission or body by delivering a copy of the
89 summons and complaint as required by statute, or in the absence of a controlling
90 statute, to any member of its governing board, or to its executive employee or
91 secretary.

92 **(2) Service by mail or commercial courier service.**

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

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

102 (C) Service by mail or commercial courier service shall be complete on the date
103 the receipt is signed as provided by this rule.

104 **(3) Acceptance of service.**

105 **(A) Duty to avoid expenses.** All parties have a duty to avoid unnecessary
106 expenses of serving the summons and complaint.

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

112 **(i) Content of proof of electronic acceptance.** If acceptance is obtained
113 electronically, the proof of acceptance must demonstrate on its face that the
114 electronic signature is attributable to the party accepting service and was
115 voluntarily executed by the party. The proof of acceptance must demonstrate
116 that the party received readable copies of the summons and complaint prior
117 to signing the acceptance of service.

118 **(ii) Duty to avoid deception.** A request to accept service must not be
119 deceptive, including stating or implying that the request to accept service
120 originates with a public servant, peace officer, court, or official government
121 agency. A violation of this paragraph may nullify the acceptance of service
122 and could subject the person to criminal penalties under applicable Utah law.

123 **(C) Acceptance of service by attorney for party.** An attorney may accept service
124 of a summons and complaint on behalf of the attorney's client by signing a
125 document that acknowledges receipt of the summons and complaint.

126 **(D) Effect of acceptance, proof of acceptance.** A person who accepts service of
127 the summons and complaint retains all defenses and objections, except for
128 adequacy of service. Service is effective on the date of the acceptance. Filing the
129 acceptance of service with the court constitutes proof of service under Rule 4(e).

130 **(4) Service in a foreign country.** Service in a foreign country must be made as
131 follows:

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

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

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

140 (ii) as directed by the foreign authority in response to a letter of request
141 issued by the court; or

142 (iii) unless prohibited by the law of the foreign country, by delivering a copy
143 of the summons and complaint to the individual personally or by any form of
144 mail requiring a signed receipt, addressed and dispatched by the clerk of the
145 court to the party to be served; or

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

148 **(5) Other service.**

149 (A) If the identity or whereabouts of the person to be served are unknown and
150 cannot be ascertained through reasonable diligence, if service upon all of the
151 individual parties is impracticable under the circumstances, or if there is good
152 cause to believe that the person to be served is avoiding service, the party
153 seeking service may file a motion to allow service by some other means. An
154 affidavit or declaration supporting the motion must set forth the efforts made to
155 identify, locate, and serve the party, or the circumstances that make it
156 impracticable to serve all of the individual parties.

157 (B) If the motion is granted, the court will order service of the complaint and
158 summons by means reasonably calculated, under all the circumstances, to

159 apprise the named parties of the action. The court's order must specify the
160 content of the process to be served and the event upon which service is complete.
161 Unless service is by publication, a copy of the court's order must be served with
162 the process specified by the court.

163 (C) If the summons is required to be published, the court, upon the request of the
164 party applying for service by other means, must designate a newspaper of
165 general circulation in the county in which publication is required.

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

167 (1) The person effecting service must file proof of service stating the date, place, and
168 manner of service, including a copy of the summons. If service is made by a person
169 other than by an attorney, sheriff, constable, United States Marshal, or by the
170 sheriff's, constable's or marshal's deputy, the proof of service must be by affidavit or
171 unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn
172 Declarations Act.

173 (2) Proof of service in a foreign country must be made as prescribed in these rules
174 for service within this state, or by the law of the foreign country, or by order of the
175 court.

176 (3) When service is made pursuant to paragraph(d)(4)(C), proof of service must
177 include a receipt signed by the addressee or other evidence of delivery to the
178 addressee satisfactory to the court.

179 (4) Failure to file proof of service does not affect the validity of the service. The court
180 may allow proof of service to be amended.

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182 Effective May 1, 2021

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