

1 **Rule 4. Process.**

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

4 (b)(i) **Time of service.** In an action commenced under Rule 3(a)(1), the summons
5 together with a copy of the complaint shall be served no later than 120 days after the
6 filing of the complaint unless the court allows a longer period of time for good cause
7 shown. If the summons and complaint are not timely served, the action shall be
8 dismissed, without prejudice on application of any party or upon the court's own
9 initiative.

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

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

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

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

15 (c)(1) The summons shall contain the name of the court, the address of the court,
16 the names of the parties to the action, and the county in which it is brought. It shall
17 be directed to the defendant, state the name, address and telephone number of the
18 plaintiff's attorney, if any, and otherwise the plaintiff's address and telephone number.
19 It shall state the time within which the defendant is required to answer the complaint
20 in writing, and shall notify the defendant that in case of failure to do so, judgment by
21 default will be rendered against the defendant. It shall state either that the complaint
22 is on file with the court or that the complaint will be filed with the court within ten
23 days of service.

24 (c)(2) If the action is commenced under Rule 3(a)(2), the summons shall state
25 that the defendant need not answer if the complaint is not filed within 10 days after
26 service and shall state the telephone number of the clerk of the court where the
27 defendant may call at least ~~43~~14 days after service to determine if the complaint has
28 been filed.

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

32 (d) **Method of service.** Unless waived in writing, service of the summons and
33 complaint shall be by one of the following methods:

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

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

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

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

59 (d)(1)(D) Upon an individual incarcerated or committed at a facility operated
60 by the state or any of its political subdivisions, by delivering a copy of the
61 summons and the complaint to the person who has the care, custody, or control
62 of the individual to be served, or to that person's designee or to the guardian or
63 conservator of the individual to be served if one has been appointed, who shall,
64 in any case, promptly deliver the process to the individual served;

65 (d)(1)(E) Upon any corporation not herein otherwise provided for, upon a
66 partnership or upon an unincorporated association which is subject to suit under
67 a common name, by delivering a copy of the summons and the complaint to an
68 officer, a managing or general agent, or other agent authorized by appointment
69 or by law to receive service of process and, if the agent is one authorized by
70 statute to receive service and the statute so requires, by also mailing a copy of
71 the summons and the complaint to the defendant. If no such officer or agent can
72 be found within the state, and the defendant has, or advertises or holds itself out
73 as having, an office or place of business within the state or elsewhere, or does
74 business within this state or elsewhere, then upon the person in charge of such
75 office or place of business;

76 (d)(1)(F) Upon an incorporated city or town, by delivering a copy of the
77 summons and the complaint to the recorder;

78 (d)(1)(G) Upon a county, by delivering a copy of the summons and the
79 complaint to the county clerk of such county;

80 (d)(1)(H) Upon a school district or board of education, by delivering a copy of
81 the summons and the complaint to the superintendent or business administrator
82 of the board;

83 (d)(1)(I) Upon an irrigation or drainage district, by delivering a copy of the
84 summons and the complaint to the president or secretary of its board;

85 (d)(1)(J) Upon the state of Utah, in such cases as by law are authorized to be
86 brought against the state, by delivering a copy of the summons and the complaint
87 to the attorney general and any other person or agency required by statute to be
88 served; and

89 (d)(1)(K) Upon a department or agency of the state of Utah, or upon any
90 public board, commission or body, subject to suit, by delivering a copy of the
91 summons and the complaint to any member of its governing board, or to its
92 executive employee or secretary.

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

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

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

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

105 (d)(3) **Service in a foreign country.** Service in a foreign country shall be made
106 as follows:

107 (d)(3)(A) by any internationally agreed means reasonably calculated to give
108 notice, such as those means authorized by the Hague Convention on the Service
109 Abroad of Judicial and Extrajudicial Documents;

110 (d)(3)(B) if there is no internationally agreed means of service or the
111 applicable international agreement allows other means of service, provided that
112 service is reasonably calculated to give notice:

113 (d)(3)(B)(i) in the manner prescribed by the law of the foreign country for
114 service in that country in an action in any of its courts of general jurisdiction;

115 (d)(3)(B)(ii) as directed by the foreign authority in response to a letter
116 rogatory or letter of request; or

117 (d)(3)(B)(iii) unless prohibited by the law of the foreign country, by delivery
118 to the individual personally of a copy of the summons and the complaint or by

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

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

123 (d)(4) **Other service.**

124 (d)(4)(A) Where the identity or whereabouts of the person to be served are
125 unknown and cannot be ascertained through reasonable diligence, where service
126 upon all of the individual parties is impracticable under the circumstances, or
127 where there exists good cause to believe that the person to be served is avoiding
128 service of process, the party seeking service of process may file a motion
129 supported by affidavit requesting an order allowing service by publication or by
130 some other means. The supporting affidavit shall set forth the efforts made to
131 identify, locate or serve the party to be served, or the circumstances which make
132 it impracticable to serve all of the individual parties.

133 (d)(4)(B) If the motion is granted, the court shall order service of process by
134 means reasonably calculated, under all the circumstances, to apprise the
135 interested parties of the pendency of the action to the extent reasonably possible
136 or practicable. The court's order shall also specify the content of the process to
137 be served and the event or events as of which service shall be deemed
138 complete. Unless service is by publication, a copy of the court's order shall be
139 served upon the defendant with the process specified by the court.

140 (d)(4)(C) In any proceeding where summons is required to be published, the
141 court shall, upon the request of the party applying for publication, designate the
142 newspaper in which publication shall be made. The newspaper selected shall be
143 a newspaper of general circulation in the county where such publication is
144 required to be made.

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

146 (e)(1) If service is not waived, the person effecting service shall file proof with the
147 court. The proof of service must state the date, place, and manner of service. Proof
148 of service made pursuant to paragraph (d)(2) shall include a receipt signed by the

149 defendant or defendant's agent authorized by appointment or by law to receive
150 service of process. If service is made by a person other than by an attorney, the
151 sheriff or constable, or by the deputy of either, by a United States Marshal or by the
152 marshal's deputy, the proof of service shall be made by affidavit.

153 (e)(2) Proof of service in a foreign country shall be made as prescribed in these
154 rules for service within this state, or by the law of the foreign country, or by order of
155 the court. When service is made pursuant to paragraph (d)(3)(C), proof of service
156 shall include a receipt signed by the addressee or other evidence of delivery to the
157 addressee satisfactory to the court.

158 (e)(3) Failure to make proof of service does not affect the validity of the service.
159 The court may allow proof of service to be amended.

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

161 (f)(1) A plaintiff may request a defendant subject to service under paragraph (d)
162 to waive service of a summons. The request shall be mailed or delivered to the
163 person upon whom service is authorized under paragraph (d). It shall include a copy
164 of the complaint, shall allow the defendant at least ~~20~~21 days from the date on
165 which the request is sent to return the waiver, or 30 days if addressed to a defendant
166 outside of the United States, and shall be substantially in the form of the Notice of
167 Lawsuit and Request for Waiver of Service of Summons set forth in the Appendix of
168 Forms attached to these rules.

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

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

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

178 [Advisory Committee Notes](#)

Rule 4.

Effective Date: May 1, 2014