

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, the summons and  
5 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 The court may allows a longer period of time for good cause shown. If the summons and complaint are  
8 not timely served, the action ~~shall~~against the unserved defendant will be dismissed, without prejudice on  
9 application motion of any party or ~~upon~~on the court's own initiative.

10 ~~(b)(ii) In any action brought against two or more defendants on which service has been timely~~  
11 ~~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~~must:

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

18 ~~(c)(1)(B) be directed to the defendant;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 (d)(1)(E) Upon ~~any a~~ corporation not ~~herein~~ otherwise provided for in this rule, upon a limited  
 69 liability company, a partnership, or upon an unincorporated association which is subject to suit  
 70 under a common name, by delivering ~~a copy of~~ the summons and ~~the~~ complaint to an officer, a  
 71 managing or general agent, or other agent authorized by appointment or ~~by law~~ to receive ~~service~~  
 72 ~~of process and, if the agent is one authorized by statute to receive service and the statute so~~  
 73 ~~requires, by also mailing a copy of the summons and the complaint to the defendant, if the agent~~  
 74 is one authorized by statute to receive process and the statute so requires. If no ~~such~~ officer or

75 agent can be found within the state, and the defendant has, or advertises or holds itself out as  
76 having, ~~an office or a~~ place of business within the state or elsewhere, or does business within this  
77 state or elsewhere, then upon the person in charge of ~~such office or the~~ place of business;

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

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

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

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

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

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

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

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

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

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

106 **(d)(3) Acceptance of service.**

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

109 **(d)(3)(B) Acceptance of service by party.** Unless the person to be served is a minor under  
110 14 years old or an individual judicially declared to be incapacitated, of unsound mind, or

111 incapable of conducting the individual's own affairs, a party may accept service of a summons  
 112 and complaint by signing a document that acknowledges receipt of the summons and complaint.

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

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

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

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

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

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

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

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

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

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

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

146 (d)(45)(B) If the motion is granted, the court ~~shall~~will order service of ~~process the complaint~~  
 147 and summons by means reasonably calculated, under all the circumstances, to apprise the

148 ~~interested named parties of the pendency of the action to the extent reasonably possible or~~  
 149 ~~practicable.~~ The court's order ~~shall also~~ must specify the content of the process to be served and  
 150 ~~the event or events as of which service shall be deemed complete upon which service is~~  
 151 complete. Unless service is by publication, a copy of the court's order ~~shall~~ must be served ~~upon~~  
 152 ~~the defendant~~ with the process specified by the court.

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

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

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

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

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

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

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

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

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

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

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

189 | **Advisory Committee Notes**

190 | 2016 Amendments

191 | Paragraph (d)(3) contemplates delivery and acceptance of the summons and complaint by various  
192 | methods, including electronic delivery and signature.