

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 \(d\)\(3\).](#)