

service”); *Tonelson v. Haines*, 406 P.2d 845 (Ariz. Ct. App. 1965)(Service of malpractice case was proper when surgeon’s wife slammed the door on the process server); Ariz.R.Civ.P. 4.1(d)(2). It is equally well established that a return of service can be invalidated only by clear and convincing evidence. *Eldridge v. Jagger*, 317 P.2d 942 (Ariz. 1957).

In addition to personal service (which has always included abode service), small claims litigants have another option. “In addition to any other available methods of service, the plaintiff may serve the summons and complaint by registered or certified mail.” A.R.S. § 22-513. Service by certified mail, which is very common in small claims cases, provides an often inexpensive alternative to abode service. It does not replace it. “Service of the small claims complaint and summons may be made as in other civil cases, or it may be made by registered or certified mail.” McAuliffe, 2 Ariz. Prac., Civil Trial Practice § 1:6, *Justice Courts: Small Claims Division* (Dec. 2023).

Removing “personal” from “personal service” would result in self-represented litigants, judges, and hearing officers debating and wondering whether “service” means something similar to delivered, furnished, sent, or distributed. We recommend leaving the term “personal service” alone. It is not broken. Attempts to fix it are consequently unnecessary.

CONCLUSION

We respectfully request that the original proposed amendment to Rule 5(b)(2) of the Rules of Small Claims Procedure be rejected. We take no position as to whether “personal service” should be defined again in the rules that govern small claims cases.

RESPECTFULLY SUBMITTED, this 14th day of March 2024.

/s/ Anna Huberman
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