

TO:

Rule 28 Distribution
Hon Gerald A Williams
Anna Huberman
Barry R Goldman
Larry J. Ratcliff
John Osborn
Barry R Goldman
Ronald R. Ezell
Susie Baldwin
Kay Dean
Gregory Scott Hardy
Nathan Botsch
Matthew Uthe
Tracy Arnold

ATTACHMENT¹

JUSTICE COURT RULES OF CIVIL PROCEDURE

Rule 113. Serving a Summons and Complaint

a. – e. [No change]

f. Additional alternative means for service on a defendant in or outside the State of Arizona by electronic means. If a plaintiff shows that the means of service provided in Rule 113(a) through Rule 113(e) are impracticable or have been unsuccessful, that plaintiff may file a motion to serve the summons and complaint on the defendant by alternative service. In addition to any other available methods of alternative service, the plaintiff may move to serve the defendant using electronic means. “Electronic means” can include delivery to an email address or to any other electronic method or service, provided that such delivery is reasonably calculated to ensure the defendant actually receives the summons and complaint. The plaintiff must establish either:

(1) that it has received a communication from the defendant through the proposed electronic means within the previous 60 days;

(2) that the defendant has actively used the electronic means, including by posting publicly or privately in a way in which the plaintiff can access the post(s), within the previous 60 days; or

(3) that the plaintiff reasonably believes that the defendant is likely to access the summons and complaint through the particular electronic means. If this method is used, the plaintiff must show in the proof of service document that the defendant received the summons and complaint through the electronic means.

The court’s order must require the plaintiff to also mail the summons and complaint together with the court order authorizing the alternative means of service to the defendant’s last-known address.

f.g. Amendment of summons or proof of service. A summons or a proof of service may be amended if reasonable and as the judge may allow, and if the amendment does not cause substantial harm to the defendant who was served.

g.h. Acceptance of Service. Service may be made without the expense of a process server if the defendant agrees in writing to accept service. A defendant may sign an acceptance of service of a summons and complaint if a notarial officer witnesses the signature. The signed acceptance of service must then be returned to the plaintiff and filed with the court. The date of service is the date that the signed acceptance of service is filed with the court.

¹ Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

h.i. Jurisdiction. A justice court may exercise personal jurisdiction over the parties who have been properly served to the full extent permitted by the constitutions and laws of the State of Arizona and of the United States.

i.j. Dismissal because of lack of service; service on some but not all defendants. After at least twenty (20) days' notice to plaintiff, the court may dismiss a complaint as to any defendant who has not been served with the summons and complaint within ninety (90) days after the filing date of the complaint. Before the dismissal date, if the plaintiff shows good reasons why a defendant has not been served, the court may extend the time for service. When some but not all of the defendants in a lawsuit have been timely served, the court may dismiss from the lawsuit the defendants who have not been served, and allow the plaintiff to proceed against the defendants who have been served.