



UNITED STATES DISTRICT COURT *District of Rhode Island*

Service of Process

What do I do after I file a complaint?

If you filed an Application to Proceed in Forma Pauperis (also called an IFP application) and it is granted, the Clerk's Office will send you a blank summons and a USM-285 Process Receipt and Return for each defendant to be completed by you and returned to the Clerk's Office for service of process by the U.S. Marshal Service. The defendant(s) will then be served the summons and the complaint by a Deputy U.S. Marshal at no cost to you. Please note: the Deputy U.S. Marshal will serve *only* those defendants for whom you have submitted a properly completed USM-285 Form. You must submit one properly completed USM-285 Form for each defendant to be served. This form is available from the Clerk's Office or on the Court's website.

If you did not file an Application to Proceed in Forma Pauperis, or if you filed the application but it was denied (and your case was not dismissed), you must arrange to have a copy of the summons and complaint served on each defendant. You can obtain the "Summons in a Civil Action Form" from the Clerk's Office or on the Court's website. After you complete it, bring it to the Clerk's Office to have it signed and sealed by a Deputy Clerk. You should keep the original summons that has been signed and sealed and file it with the Clerk's Office, along with a proof of service for each defendant. The Proof of Service form is attached to the "Summons in a Civil Action Form." Your lawsuit will not proceed until you serve copies of the summons and complaint on each named defendant.

When must the summons and complaint be served?

A plaintiff has 120 days from the date the complaint was filed to serve a copy of the summons and the complaint. See: Fed. R. Civ. P. 4(m) for more information.

Who can serve the summons and complaint?

Most litigants hire a professional process server to serve the summons and complaint on each defendant. However, it is not necessary to hire a professional. Any person who is at least 18-years-old and not a party to the lawsuit may serve a summons and complaint. See: Fed. R. Civ. P. 4 (c)(2) for more information.

Do I have to hand-deliver the summons and complaint?

In most instances, you will have to arrange to have the summons and complaint hand-delivered to each defendant. This can be avoided by asking each defendant to accept service by mail instead. To do this, you must send each defendant a "Notice of Lawsuit and Request to Waive

Service of a Summons Form” in the manner described below. This form is available from the Clerk's Office, or on the Court's website.

Fed. R. Civ. P. 4(d) sets forth the requirements for requesting a waiver of service. Generally, to send the “Notice of Lawsuit and Request to Waive Service of a Summons Form” to the defendant(s), you must do the following:

1. Complete the “Notice of Lawsuit and Request to Waive Service of a Summons Form”, specifying a due date on the form.
You must give the defendant a reasonable amount of time to return the waiver of service to you, which must be at least 30 days from the date the request is sent (or 60 days if the defendant is outside the United States).
2. Provide a copy of the summons and complaint;
3. Provide two copies of the Waiver of the Service of Summons Form;
4. Include a self-addressed, stamped envelope with sufficient postage to return the waiver of service to you; and
5. Deliver all of the above by first-class mail or other reliable means.

If a defendant returns the signed waiver of service to you, service on that defendant is complete. However, you must file the defendant’s signed waiver of service with the Clerk’s Office. Be sure to save a copy for your own files. Any defendant who does not return the waiver of service form must be served by the appropriate method, usually hand-delivery, described in Fed. R. Civ. P. 4.

Please note that the following types of defendants may not waive personal service and *must* be served by the other methods described in Fed. R. Civ. P. 4:

1. A minor or incompetent person in the United States;
2. The United States government, its agencies, corporations, officers or employees; or
3. A foreign state or local government.

How do I prove that the defendant was served?

Unless a defendant waives personal service and accepts service by mail, you must file a proof of service with the Court. The person who performed the service of process must complete and sign a “Proof of Service Form.” This form is available in the Clerk’s Office or on the Court's website.

What do I do after a defendant is served?

After each defendant has been served, submit the original summons along with the proofs of service to the Clerk’s Office for filing.

If you have additional questions, visit the Clerk’s Office during normal business hours or contact us at (401) 752-7200. Please note: we will be happy to provide you with general instructions concerning court rules and procedures; however, we are prohibited from interpreting those rules and procedures or the law, evaluating facts, calculating time deadlines, or otherwise providing legal advice.