

SERVICE

CIVIL CASES ONLY

1

IMPORTANT

You do **NOT** need the forms in this packet if the Sheriff or process server will serve your papers in Yuma County. The sheriff and process servers in Yuma County provide their own forms.

SERVICE for CIVIL CASES ONLY

PACKET CONTENTS

This packet contains information, instructions, and forms to affect Service of Process for a Civil lawsuit. Do **not** copy or file the FAQs or instructions.

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SERVICE in a CIVIL CASE: Frequently Asked Questions

1. What is a “Summons”?

A **summons** is a court order that gives the defendant notice that a lawsuit has been filed against him or her. It also explains that a judgment will be made against him or her if the defendant does not answer the complaint within a specified number of days. When you file your Civil Complaint documents, the Clerk of Superior Court will issue a summons to each Defendant named in the complaint.

2. What is “Service of Process”?

The delivery of your Summons and Complaint to the Defendant you are suing is called "service of process." After you file your Complaint and the Clerk issues the Summons, a copy of the Summons, civil Complaint, and certificate regarding compulsory arbitration must be served on each Defendant. Service of Process notifies the Defendant that a lawsuit against him or her is filed, which may affect his or her rights, and the Defendant has a right to speak and defend him or herself.

3. What does it mean to “Serve papers”?

- Serving papers on the Defendant is an official handing over of your Summons and Complaint to the Defendant. Papers must be "served" on any other person who is involved in the lawsuit or anyone the law requires to be served.
- Service of court papers informs the Defendant what you are suing for, what you are asking the court to do, and that Defendant has a right to defend against the Complaint.
- A person is served when they officially receive the court papers.

4. What if I hire a Certified Process Server who is unsuccessful with serving the Defendant?

- If the certified process server attempts to serve the Defendant multiple times with no success, you must further research the location of the Defendant. See the last page of these FAQs for various ways you may research the Defendant's location.
- If, after diligently exhausting ways to locate the Defendant, you still cannot locate the Defendant, you may research the rules for service by publication. See Arizona Rules of Civil Procedure, Rule 4.1(l) and 4.2(f). If you have complied with this rule, you may serve by the method of publication.

5. Are there different kinds of Service?

Yes. However, to begin a Civil lawsuit, Personal Service is generally required. If you have a complicated case, or your case involves a Defendant from outside Arizona, ask an attorney for assistance in interpreting the rules and kind of service that best fits your case.

- **Personal Service** – when the Sheriff, Constable, or Certified Process Server **hand delivers** the Complaint and Summons to the Defendant, or to a person of suitable age and discretion who lives with Defendant. The Sheriff, Constable or Process Server must tell the other person that these are legal papers, then leave the papers near the person (at their feet is fine), or by leaving the papers at the Defendant's dwelling with a person of suitable age and discretion who lives there. The person they serve does not have to accept the papers, or say, or sign anything. ARCP 4.1(d), 4.2(b).
- **Publication** - After you follow the list of ways to locate the Defendant (in #11 below), and you still cannot find the Defendant, you may request (by motion) an order from the court allowing you to use this type of service. Your motion must convince the court by describing all your past unsuccessful attempts to serve the Defendant, that you have a valid claim against the Defendant, and that the Defendant you are trying to serve is necessary to the case. Only with the Court's permission, may you serve the Defendant by publication. ARCP 4.1(l), 4.2(f).
- **Alternative Service** – (*Court permission required*). After you attempt to locate the Defendant (See list in #9 below), and you still cannot find the Defendant, you may request (by motion) an order from the court allowing you to use this type of service. With Court permission, you then may give the court papers to the Sheriff, Constable, or Process Server who serves process on the Defendant by leaving the court papers with someone other than a party to the lawsuit. ARCP 4.1(k). Also, you must mail the Summons and the Complaint and the Court order authorizing alternative service to Defendant's last known business or residence.

Note: If you have a complicated case, or your case involves a Defendant from outside Arizona, ask an attorney for assistance in interpreting the rules and means of service that best fits your case.

6. Who can serve the court papers in a Civil Case?

The Arizona Rules of Civil Procedure Rules 4(d) state that the people listed below may affect service within Arizona. These persons must not be involved in the case and must swear to the date, and method of delivery of the court papers.

- The county Sheriff, or Sheriff's deputy,
- The county Constable, or Constable's deputy
- A Certified Private Process Server

YOU CANNOT SERVE YOUR OWN DOCUMENTS!

7. Does it cost money to serve the Civil Complaint and Summons?

YES. The county sheriff, constable, or certified process servers charge for serving the Civil Complaint. The charges vary, so ask questions about the cost before you file at the court or hire a process server.

8. What if I cannot afford to pay a process server?

If you cannot pay a process server to serve your civil Complaint, ask for a Fee Deferral/Waiver packet at the Law Library Resource Center. The last form in the Fee packet involves service of process. Complete this form, especially noting the Defendant's exact address on the last page. Fill out the remainder of the form if you are also request a Fee Deferral or Waiver. Deliver this Fee packet to the clerk of court **at the same time** you file your Civil Complaint packet.

9. When do I serve the Civil Complaint and Summons?

Generally, **after** the Plaintiff files the Civil Complaint and Summons forms at the office of the Clerk of Court, the Plaintiff coordinates the Sheriff or Process Server to serve the Defendant. Once the Clerk of Court certifies the Summons and Civil Complaint, and hands it back to the Plaintiff, you may give the Complaint and Summons to the Sheriff or Process server for service on the Defendant.

10. How long do I have to serve the Defendant?

Generally, your Summons and Complaint must be served within 90 days after you file the Complaint. (ARCP 4(i)) If you fail to serve the Defendants within 90 days, your Complaint will be dismissed. In complicated cases such as serving a Defendant in a foreign country, ask an attorney for assistance in interpreting the rules, and the kind of service that best fits your case.

11. Who must be served?

All Defendants named in your Complaint must be served. The Defendants who are not served within the required time limit may be dismissed from your lawsuit.

If your case involves a Defendant from outside Arizona, or outside the U.S.A., or other particular situation, ask an attorney for assistance in interpreting the rules and kind of service that best fits your case.

- If you are suing an individual, serve the person you are suing. If you are suing more than one individual, serve each person you are suing.
- If you are suing a single-owner business (called a "sole proprietorship"), serve the owner.
- If you are suing a partnership under its business name, serve one of the partners. If you are suing a business AND its partners, serve each partner. If you are suing a limited partnership, serve the general partner, general manager, or the agent for service (if there is one).
- If you are suing a corporation, serve an officer of the corporation or the agent for service. You can find out the name of the Arizona corporation's agent for service at the website <http://www.azcc.gov/>.
- If you are suing a city, serve the city clerk or agent authorized to accept service. You can find the address and phone number on the government or the City website.
- If you are suing a county, serve the county clerk or agent authorized to accept service. Check your county's website for the county clerk's address and telephone number.

12. Where are my case Documents Served?

The Sheriff, Constable, or Process Server serves the Defendant **where the Defendant lives, or works**, or anywhere else the Defendant can be found. You must give the Sheriff, Constable, or Process server the exact address, and times of day the Defendant will be at the location to be served.

13. How do I locate the address of the Defendant I must serve?

Sometimes, finding the Defendant in order to serve him or her involves research. The following steps may be used to find a Defendant.

- **Send a letter** to Defendant's **last** address. Under your return address, write "Return Service Requested. Do Not Forward." If the person filed an address change with the post office, you will get the letter back with a new address. Get more information from the United States Postal Service.
- **Go to the local post office** covering the area for the person's last known address. Ask if the person left a forwarding address.
- **Business License Information:** Contact the Arizona Department of Revenue at Local: **(602) 255-3381** or Toll-free: **(800) 352-4090**, or <https://www.azdor.gov/business/licensingguide.aspx>.
- **Call "411"** for the city or cities where you think the person may live or work. If the person is listed, you may be able to get his or her address. Or you may only get the phone number, but you can use the phone number to try other things to get the address.
- **Search free online telephone directories.** You can do an Internet search to try to locate the person. Some Internet searches are free, and if the person is listed, you can get the phone number or address.
- **Search online on sites that search for people.** You may be able to pay a small fee to an Internet company to give you the address or phone number of the person you are looking for. In that case, the more details you have about the person you are searching for (like date of birth or approximate age), the better your results.
- **Search social networking sites.** You can search popular social network sites where people often list their name, location, and perhaps other information you can find helpful. Or, you may be able to email them through the social network site if you think they may cooperate with you and give you information so you can serve them with legal papers.
- **Use a reverse telephone directory.** If you only know the person's phone number, you can get the address from a reverse telephone directory, which allows you to search by a telephone number to get the name and address of that telephone number's subscriber. BUT the address and name will not be in the reverse directory if the phone number is unlisted.
- **You can also use a reverse phone directory online.** There are several of these. Just search for "reverse phone directory."
- **Military:** If you believe the Defendant may be in the military, the following are military locator services:
 - Air Force: (210) 565-2660
 - Army: (703) 325-8151 or (866) 771-6357
 - Navy: (866) 827-5672
 - Marines: (703) 784-3942 or (800) 268-3710
 - <http://www.uscg.mil/locator/>

- **Contact Defendant's friends or relatives.** If you know any of the person's relatives or friends, contact them for information. Call, write, or e-mail them and ask if they have any contact information for him or her. They may not have all the information but even if they only know what city he or she may have moved to, the information may be helpful to you. You can also explain to them why you need to find this person and even if they do not want to give you the person's contact information, they may be willing to contact him or her on your behalf and give him or her your contact information so he or she can get in touch with you and find out what you want.
- **Past employers.** If you know any of the person's past employers, contact them for information. Ask the last known employer (or even employers before that) if they have any information about the person's whereabouts, even if it is just a city where he or she may have moved, or the name and address of the new employer.
- **Property search.** If the person you are trying to find owns property, search property records online or at the County Recorder's Office; <https://www.yumacountyaz.gov/government/recorder> or 928-373-6020.
- **The county tax assessor's website.** You can use the owner name, map or address to find a list of the names and addresses of property owners in the county. The tax assessor's office may be able to assist you in your search. <https://assessor.yumacountyaz.gov/assessor/web/> or 192 S. Maiden Lane, Yuma, Arizona 85365.
- **Jail or Prison.** If you have any reason to think the person may be in prison or jail, follow these steps:
For Arizona State Prison: Call the Arizona Department of Corrections, or find it online. You must have either the inmate's CDC number or the inmate's full name and date of birth to get information. Find the phone number for the Arizona Department of Corrections. Find a list of Arizona correctional facilities.
- **For Federal Prison:** Click for the Federal Bureau of Prison's Inmate Locator database. You can search the database using the inmate's first and last name or the inmate's Register Number, DCDC Number, FBI Number, or INS Number. Find a list of federal correctional facilities at the Federal Bureau of Prisons. Fill in whatever information you know (like the state or city you are looking for) and hit "submit."
- **For County Jail:** Call the jail. You can usually find the phone number and address for the jail by calling the county sheriff. Find the contact information for the county sheriffs in Arizona. Then ask about their procedure for serving a Defendant in jail.
- If you do not know if a person is in state or federal prison or county jail, search for the person in state and federal prison and the counties where you think the person might be incarcerated.

HOW to SERVE a Civil Complaint by CERTIFIED PROCESS SERVER

This method requires you to find, hire, and pay, a certified process server to serve the civil summons and complaint to the defendant. Using the address you provide, process server is a person who will give the papers to the defendant at home, work, or other location. A certified process server has taken and passed a certification test. The certified process server will use the address you provide to find and serve the defendant.

If you decide to use this method, look under "**PROCESS SERVER**" online or in the Yellow Pages to find someone who can serve your papers. Service is complete at the time the process server hands the other party the court papers. Be sure to ask the process server if he or she will return the sheet to the clerk of court and file it. If you choose this method of service, use the "**Service by Process Server**" form.

Notice: Generally, it costs money to serve a complaint using a certified process server. If you cannot afford to pay a process server, you may apply for a Fee Waiver/Deferral, and have the Yuma County Sheriff serve your civil complaint packet. A fee waiver or deferral only covers costs of service of process for the sheriff – not certified process servers.

STEP 1:

FIND. Using a local telephone book, locate process servers in the commercial section of the phone book under "**PROCESS SERVER**". If you have access to a tablet, computer or cell phone, look online by using the search term "Yuma process servers" or similar. Also, the web site of the Arizona Process Server's Association is helpful. A certified process server:

- May offer greater flexibility in serving papers "after-hours" or on short notice.
- Are paid directly by you, not through the court.
- Fees may not be deferred or waived by the court.

STEP 2: GO.

Go to the Registered Process Server's office. **TAKE** with you the following things:

- Defendant's copy of "**Civil Complaint packet with Summons.**"
- A picture or a written physical description of the Defendant.
- A written description of the automobile that the other party drives.
- The address where the other party can be served.
- The amount you need to pay for this service. (You can call ahead of time to ask the Process Server what type of payment they require.)

STEP 3: WAIT.

The Process Server will mail you a copy of the "**Affidavit of Service**" after he/she serves the other party with the papers. **IMPORTANT: If the Process Server does not file an "Affidavit of Service" with the Clerk of the Court, you must get the "Affidavit of Service" from the Process Server, take it to the court clerk, and file it.**

STEP 4: COUNT.

Look at the "**Affidavit of Service**" to find out the **date** the Defendant was **served** with the court papers. Start counting the days on the day **after** the other party was served the papers. The Defendant has twenty days to file an Answer after being served in the State of Arizona and thirty days to file an Answer after being served in a State other than Arizona.

HOW to SERVE a Civil Complaint by the SHERIFF

This method requires you to contact the Sheriff's Office in the county where the Defendant lives to arrange for a Sheriff's deputy to give the defendant the civil court papers. This method requires you to pay a fee to the Sheriff's Office, *unless you receive a fee waiver or deferral*.

The fee waiver or deferral **form** that Arizona uses is available at the Law Library Resource Center and is only for persons who meet certain financial requirements and cannot afford the cost of service. The fee waiver and deferral form requires you to explain to the Sheriff why your situation requires you to use this method of service. If you are granted a fee waiver or deferral at the time you file your civil Complaint packet, the clerk will direct you to take the Defendant's packet and the fee information to the sheriff's office down the hallway.

Service is complete at the time the sheriff or deputy hands the Defendant the court papers. Either the Sheriff may return the affidavit of service to you or to the clerk of court to show your packet was served. If you choose this method of service, use the **"Service by Sheriff"** form.

STEP 1: GO. Contact the Sheriff's Office in the county where the Defendant lives. Bring the Defendant's civil Complaint packet with you. (If the Defendant does not live in Yuma County, send a copy of the court papers to the Sheriff's Office in the other county. In Yuma County the Sheriff's Office Civil Process Unit is located

Yuma County Sheriff's Office
141 S. 3rd Avenue
Yuma, Arizona 85364
928-539-7837

Notice: There is a filing fee for all Civil Complaints and Answers as well as fees for service of court papers. You may request a waiver or deferral of the filing fees (and the Sheriff's service fees if you intend to use the Sheriff's Office for service) at the time you file your papers with the Clerk of the Court.

STEP 2: WRITE. If you are asking that the papers be served by a Sheriff's Department *other than* Yuma County's, fill out the attached sheet for identifying the Defendant and provide:

- Defendant's set of copies of the civil court papers.
- A picture or written physical description of the Defendant.
- A written description of the automobile the Defendant drives.
- The address where the defendant can be served.
- **"Certified Order Waiving/Deferring Fees,"** or a \$200.00 deposit fee - cash/money order.

STEP 3: WAIT. The Sheriff may mail you a copy of the **"Affidavit of Service"** after the Defendant is served with the papers - **or** the Sheriff may file these papers instead of sending them back to you. If the Sheriff mails the affidavit to you – file it pronto!

STEP 4: COUNT: Read the **"Affidavit of Service"** to find out the date the Defendant was served with the court papers and start counting the days the Defendant has to file an Answer. (When counting the days, start counting with the day **after** the Defendant was served with the court papers.)

(YOUR NAME)

(ADDRESS)

(CITY/STATE/ZIP)

(TELEPHONE NUMBER)

(DATE)

County Sheriff

(COUNTY NAME)

(ADDRESS)

(CITY/STATE/ZIP)

COURT CASE NO. _____

REGARDING: (NAME OF PERSON TO BE SERVED) _____

I enclose a copy of the following documents: (LIST ALL DOCUMENTS YOU WANT TO BE SERVED)

_____	_____
_____	_____
_____	_____

Please serve these papers on the Defendant. His or her current address and physical description are:

(Defendant's NAME)

(HOME ADDRESS)

(HOME CITY/STATE/ZIP)

(WORK ADDRESS)

(WORK CITY, STATE, ADDRESS)

SEX	RACE	BIRTH	HGT.	WGT.	EYES	HAIR	SSN

Please return a notarized **"Affidavit of Service"** to my address at your earliest convenience. The court requires that each document served be named in the **"Affidavit of Service."**

☐

I also enclose a deposit of \$200. I understand there is a \$16.00 service fee, a travel fee of \$2.40 per mile (one way), for each attempt at service, and a \$8.00 notary fee. I understand that the difference between my deposit and the fees accrued for service will be billed, or returned, to me.

OR,

☐

I also enclose a certified copy of the **"Order for Waiver/Deferral of Fees for Service of Process."**

Thank you for your cooperation in this matter.

(YOUR SIGNATURE)

Enclosures

HOW to SERVE by PUBLICATION

You may use this method only if you do not know where the Defendant lives, or cannot find the Defendant. Service by publication is your "last resort." Use this method of service only if you do not have a current address for the Defendant and have tried unsuccessfully, to find the Defendant. Service by Publication can be expensive and may delay your court case.

WARNING: You must make EVERY REASONABLE EFFORT to locate and actually serve the Defendant BEFORE publishing. Make a list of the ways you attempted to serve the Defendant. If you cannot prove to the court that you exhausted your attempts to serve the Defendant, the Court will NOT accept service by publication; your case will be delayed, and may be DISMISSED. You may also be required to take additional steps at your own expense, including being required to publish notice *again*.

This method requires that information from the **"Summons"** be published in a Yuma County newspaper once a week, for four weeks in a row if the Defendant's last known address is in Yuma County. If the Defendant's last known address is in Arizona, but **not** in Yuma County, a copy of the summons must be published in a Yuma County newspaper **and** a newspaper in the county of the Defendant's last known address.

STEP 1: Complete the attached letter to newspaper listing the documents that need to be printed by the newspaper.

STEP 2: Deliver or mail the letter and Defendant's civil complaint packet to the newspaper.

A. IF YOU HAVE A COURT ORDER WAIVING/DEFERRING COSTS of PUBLICATION, YOU MUST PUBLISH IN *The Yuma Sun*.

DELIVER the letter that is attached to this form, a copy of the documents you filed with the Clerk, and the **CERTIFIED ORDER WAIVING/ DEFERRING COSTS of PUBLICATION** to: Yuma Sun 2055 S. Arizona Ave., Yuma, Arizona 85364 You may also fax the documents to **((928)343-1009**,

– OR –

B. IF YOU ARE PAYING THE COST of PUBLICATION, YOU MAY USE ANY NEWSPAPER OF "GENERAL CIRCULATION" in this county. Note that:

1. There are **numerous** eligible publications **other than** the one mentioned above;
2. The Arizona Corporation Commission maintains a list of eligible publications along with their contact information online at

<http://www.azcc.gov/Divisions/Corporations/Newspaper-list-for-publishing.pdf>.

3. **Fees vary.** You may call and ask for "Legal Advertising" to compare prices

C. How to publish service if the other party's last known address is in Arizona *and* that address is not in the county in which your case is pending:

1. You must publish in TWO (2) newspapers: A newspaper in the county in which your case is pending **and** you must publish in a newspaper in the county of the last known residence of the Defendant.
2. To publish in Yuma County follow the instructions in "Step 2" above how to publish service of process if the Defendant lives in the same county in which your case is pending.
3. To publish in another county (not Yuma County) you will need to contact a newspaper company in that county.

STEP 3: WAIT. Wait for the newspaper to send you the original of the document called "**AFFIDAVIT OF PUBLICATION**" in about five weeks.

STEP 4: COMPLETE YOUR PAPERWORK:

- A. Fill out the "**DECLARATION SUPPORTING PUBLICATION**", where you will list everything you did to attempt to find the Defendant before resorting to publication.
- B. **ATTACH** a copy of the published notice from the newspaper(s).
- C. **KEEP A COPY** of the "**DECLARATION SUPPORTING PUBLICATION**".

STEP 5: FILE THE COURT PAPERS at the Court Clerk's filing counter:

- A. File the original "**DECLARATION SUPPORTING PUBLICATION**", and a copy of the publication(s).
- B. File the original "**AFFIDAVIT OF PUBLICATION**" you received from the newspaper(s).

WHAT NEXT? Wait for Defendant's Answer or Count days and apply for default.

- A. **Determine the date of the first newspaper publication.** This date is considered as the date the Defendant was served with the court papers. Then, count the days for the Defendant to file an **Answer**. When counting down the days, start counting with the day **after** the first day of publication. **Service is completed 30 days after the first publication** (see Rule 4.1(l)). If publication is in-state, then Defendant has **20 days** after the completion of service to file a response to the complaint. If publication is out-of-state, then Defendant has **30 days** after completion of service to file a response.
- B. **If a summons was published** and the Defendant does not file an Answer within the designated time, he or she is said to have **defaulted**, and you **may** need to submit an **application for default** for your case to proceed. The Defendant has an additional 10 court business days to file a response to complaint after the application for default is filed. See the checklist in the Law Library Resource Center's **Default** packet to see if this applies to your situation. You may also fill out an application for default online by clicking on "**Application for Default**" on the right side of the web page for the Superior Court's ezCourtForms.

HOW to SHOW Due Diligence in attempting PERSONAL SERVICE on the Defendant

You must make every reasonable effort to locate and personally serve the Defendant before publishing. Make a list of the ways you attempted to serve the Defendant, and the efforts you completed before publishing. If questioned by the court, you may be asked to prove you exhausted the list of ways to locate the Defendant.

Examples of steps you MUST take BEFORE you can serve by Publication:

- **Verify** the Defendant is not at any last known address(es),
- **MAIL a copy of the documents to be served to the last known address even if it is your OWN address** (Defendant may have put in a mail-forwarding order with the Post Office). If it comes back marked “Undeliverable”, you may present that envelope as proof of your efforts.
- **Talk to Respondent’s friends, family members, current or former employers, co-workers,** or anyone else you think may have a current address.

Additional “reasonable efforts” include:

- **Searching telephone directories and obituaries** online or in print (phone book and newspaper),
- **Checking the county jail and the state prisons** (Department of Corrections).
- **Searching online networking sites** such as Facebook, MySpace, Hi5, Friendster, LinkedIn and Plaxo, as well as Internet “people search” sites such as Spokeo.com and ZabaSearch.com.
- If the Defendant has a working email account, you may also consider mailing **scanned copies of all the documents to his or her email address.**
- You may also have to consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the Defendant.

Note: SEARCHING THE INTERNET and EMAILING ALONE ARE NOT ENOUGH!

Do not copy
or file this page

LETTER TO NEWSPAPER

Print Name

Your Address

_____, 20____
Date

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Court Case No. _____
Enclosed is a copy of the following documents stamped by the Clerk of Court (list all the documents here:)

1. _____
2. _____
3. _____
4. _____

Please publish a Notice in your newspaper about this court case once a week for four successive weeks. Also enclosed is (check one box):

- ☐ A check or money order for \$ _____ for the cost of the publication as requested.
- ☐ A certified copy of the Order from the court waiving the publication costs.

When you receive this letter, please call me at _____ to tell me when the first publication will occur. When all four weeks of publication have passed, please send to me the original and one copy of an Affidavit of Publication.

Thank you for your help in this matter.

Sincerely,

Sign your name

Enclosures:

- ☐ Court documents AND
- ☐ Check or Money Order OR
- ☐ Certified copy of Court Order of Waiver/Deferral of Publication Fees

HOW TO USE THE “*WAIVER OF SERVICE*” METHOD AFTER YOU HAVE FILED YOUR COURT PAPERS

WHAT IS THE WAIVER OF SERVICE PROCESS AND HOW CAN IT BENEFIT YOU.

- You can notify the Defendant of the commencement of the lawsuit and at the same time request that the Defendant waive service. This is done in accordance the Arizona Rules of Civil Procedure 4.2(c) to avoid the costs associated with service of process.
- This request must be made in writing and accompany the summons from the original complaint. A request to waive service may only be used when the Defendant is an individual that is competent and over the age of eighteen years old, a government entity, corporation, partnership or unincorporated association.
- The forms that will need to go with a copy of the Complaint and Certificate Regarding Compulsory Arbitration include:
 - **Notice of Lawsuit and Request for Waiver of Service**
 - **Waiver of Service**

NOTE: BOTH THESE FORMS ARE NECESSARY FOR THIS PROCESS AND CAN BE PURCHASED AT THE SUPERIOR COURT LAW LIBRARY RESOURCE CENTER OR FOUND ON THE COURT WEBSITE.

- Because you are requesting that the Defendant help you avoid service fees, you must arrange a cost-free return of the signed waiver you are requesting. This can be as simple as a self-addressed stamped envelope provided so that the Defendant may get the signed waiver back to you.
- In accordance with Arizona Rules of Civil Procedure 4.1(c) (1) and 4.2(d) (1), a Defendant has a duty to avoid unnecessary service costs. If a Defendant does not agree to the Waiver of Service process, the court must impose service expenses, or any reasonable expenses including attorney's fees that are accrued if separate motions are required to collect those service expenses.

SEND THE PAPERS.

- Send the Defendant a copy of the *Complaint* and *Certification Regarding Compulsory Arbitration*, along with **TWO COPIES** of the *Notice of Lawsuit and Request for Waiver of Service* and *Waiver of Service* forms, and a **self-addressed stamped envelope via first class mail**.

WAIT FOR THE PAPERS TO RETURN OR PROCEED WITH NORMAL SERVICE PROCESS.

- ***If the Defendant does not return the signed waiver*** you may begin the process of service in one of traditional ways. Because of your efforts to request a waiver of service from the Defendant, the Defendant who denies waiving service will be responsible for the costs of service.
- ***If the waiver is returned to you signed*** then it must be filed. The action will proceed as if the summons had been served. The Defendant who waives service then has sixty (60) days from the date on which the request for waiver of service was mailed to respond. If the Waiver of Service was send out of the United States to a Defendant, the Defendant who waives the service must respond with ninety (90) days of when the Request for Waiver of Service was sent to them. A Defendant who agrees to the waiver process does not waive any objections to jurisdiction or venue of the court case.

HOW to SERVE a CIVIL COMPLAINT by USING “ACCEPTANCE OF SERVICE” METHOD

STEP 1: ASK THE OTHER PARTY TO ACCEPT SERVICE OF THE CIVIL COMPLAINT PACKET AFTER YOU HAVE FILED THE CIVIL COMPLAINT PACKET WITH THE CLERK OF THE COURT.

- You can ask the Defendant to accept service by talking to the Defendant, calling the Defendant, or sending the Defendant the letter which is in this packet.
- The other party **cannot** sign the “**Acceptance of Service**” until **after** you have filed the Civil Complaint Packet.

STEP 2: IF THE DEFENDANT AGREES TO ACCEPT SERVICE, YOU HAVE 3 OPTIONS:

A. GO: You and the Defendant can go to the Clerk of the Court filing counter at any of the Yuma Superior Court locations. Bring the original “**Acceptance of Service**,” plus two copies (one for you and one for the Defendant). The Defendant must now sign the original “**Acceptance of Service**” in front of the Clerk at the filing counter. The Clerk will notarize the Defendant’s signature for FREE. The Defendant must have a valid picture I.D. with him/her for the Notary Public to sign the “**Acceptance of Service**.”

OR

B. MEET: Arrange with the Defendant, a place and time to meet before a Notary Public (your bank may have a Notary Public). Bring the original “**Acceptance of Service**” plus two copies (one for you and one for the Defendant). You should also bring the Civil Complaint packet with you in case the Defendant or the Notary Public want to see the Civil Complaint packet. The Defendant must have a valid picture I.D. with him/her for the Notary Public to sign the “**Acceptance of Service**.” There is usually a small cost to use a Notary Public.

OR

C. MAIL: Mail a copy of the Civil Complaint packet to the Defendant with the original “**Acceptance of Service**.” Ask the Defendant to sign the “**Acceptance of Service**” and tell the Defendant **why** you have asked the Defendant to sign the “**Acceptance of Service**.” You may use the form letter in this packet to tell the Defendant why you have asked the Defendant to sign the “**Acceptance of Service**.”

AND

The Defendant must sign the Original ***“Acceptance of Service”*** and write in the date the Defendant signed the ***“Acceptance of Service.”*** The Defendant must sign the Original ***“Acceptance of Service”*** in front of a Notary Public. The Defendant must have a valid picture I.D. with him/her for the Notary Public to sign the ***“Acceptance of Service.”*** There is usually a small cost to use a Notary Public. The Defendant should then send you the signed and notarized Original ***“Acceptance of Service.”*** You should write the date the other party signed the ***“Acceptance of Service”*** on your copy.

NOTE: If the Defendant does not send back the ***“Acceptance of Service,”*** ask the Defendant again to send it back. If Defendant still does not send it back, then you have to serve the Defendant by one of the other service methods.

STEP 3: FILE THE SIGNED AND NOTARIZED “ACCEPTANCE OF SERVICE” AT THE COURT:

- **GO** to the Clerk of the Court filing counter at any of the Yuma County Superior Court locations and file the original ***“Acceptance of Service”*** signed by the Defendant and notarized.
- **GIVE** the Clerk the ORIGINALS:
 1. ***“SUMMONS,”*** if you had one
 2. ***“ACCEPTANCE OF SERVICE”*** signed by the other party in front of a notary public

STEP 4: COUNT: Count the days from the date the Defendant signed the ***“Acceptance of Service.”*** If the Defendant signed the ***“Acceptance of Service”*** in the State of Arizona and does not file an Answer within **20** days from the date the Defendant signed the ***“Acceptance of Service,”*** or if the Defendant signed the ***“Acceptance of Service”*** *outside* the State of Arizona and does not file an Answer within 30 days from the date the Defendant signed the ***“Acceptance of Service,”*** see Packet #3 regarding Default.

DO NOT BRING CHILDREN TO COURT.

(YOUR NAME)

(ADDRESS)

(CITY/STATE/ZIP)

(TELEPHONE NUMBER)

(DATE)

(NAME OF DEFENDANT OR DEFENDANT'S ATTORNEY)

(ADDRESS)

(CITY/STATE/ZIP)

Re: Acceptance of Court Papers

Dear _____
(Name of Defendant or Defendant's Attorney)

I have filed court papers for Civil Complaint.

Enclosed is a copy of the following court papers for you: (list the names of all of the court papers here)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

I have also enclosed an **"Acceptance of Service"** form. Sign this form in front of a Notary Public and return it to me in the self-addressed stamped envelope. This does not affect your right to object to or to disagree with the Complaint that has been filed.

If you choose to sign the **"Acceptance of Service,"** you still have the right to disagree with the Complaint I have filed. If you sign the **"Acceptance of Service,"** and you want to file a written Answer or Ariz.R.Civ.P. Rule 12 Motion with the Court, you must file your Answer or Motion within **20** days of signing the **"Acceptance of Service"** if you sign in the State of Arizona, or within **30** days of signing if you sign outside the State of Arizona.

Sincerely,

(PLAINTIFF'S SIGNATURE)

Enclosures

**PROCEDURES: How to serve a Civil Complaint
By Certified Mail or Nationwide delivery service
With signature confirmation**

*****Only If Defendant Will Be Served Outside of Arizona but
Within the United States*****

I. Background

Rule 4.2(c), Arizona Rules of Civil Procedure, authorizes service of the civil summons and complaint to the defendant outside of Arizona but within the United States by specific types of U.S. Mail or nationwide delivery services such as FedEx or UPS. These services provide delivery confirmation either by a *signed paper receipt* or by *electronic means such as by a printout* from the internet, fax, or email, and must include a copy of the other party's signature.

II. Requirements

A. You must obtain the party's actual signature confirming delivery.

B. It can **ONLY be the SIGNATURE of the OTHER PARTY** (and no one else).

C. To the Affidavit of Signature Confirmation you must attach:

- 1) a copy of the other party's signature confirmation and,
- 2) a cash register receipt –or- package label.
- 3) You can generally obtain a copy of the signature within a few hours of delivery from the delivering company's web site, or
 - ▶ by a toll-free phone call to have a copy of the signature sent to your fax machine, or
 - ▶ if using U.S. Mail with "Signature Confirmation", you may also use the same toll-free number to request a printed copy of the signature be mailed to you, which should reach any U. S. destination within three to five business days.

D. After you complete the Affidavit of Signature Confirmation with attachments, you must file it at the Clerk of the Court with your case number in clear view.

III. Steps for Serving by Mail or Delivery Service

STEP 1: GO to the **post office** or **mail delivery service**. Tell the clerk that you need signed confirmation of delivery and that you will need a copy of the signature on the confirmation receipt. Because only the signature of the other party can satisfy the requirements of the Court, you should also request "Restricted Delivery" which means no one except the named addressee (the other party) is allowed to sign for receipt of the documents. Not all businesses that send mail can provide "Restricted Delivery." Please discuss the process fully with whichever business you select to ensure you understand what to expect and whether "Restricted Delivery" is possible.

STEP 2: WAIT for the copy of other party's signature to return to you. If using Certified Mail, wait for the green receipt card with the other party's signature to return. When you get the green receipt, note the date the other party signed for the papers, and attach the card (or a photocopy of both sides of the card) to the Affidavit. If using another form of delivery with signature confirmation from the Postal Service or FedEx, etc., you may go to the company's web site to confirm delivery and get a copy of the signature of the party as described in part "**II. Requirements**" above.

STEP 3: COMPLETE THE AFFIDAVIT of SIGNATURE CONFIRMATION

ATTACH: You must attach a copy of the other party's signature confirming receipt of the court documents to the last page of the Affidavit.

- If using Certified Mail, note the date the other party signed for the papers, and attach the card (or a photocopy of both sides of the card) to the Affidavit. Also attach to the Affidavit the required cash register receipt or package label.
- If using another form of delivery service (with signature confirmation from the Postal Service or FedEx, etc.), get a copy of the delivery confirmation signature from the company's web site (as described in part "**II. Requirements**" above). Tape that copy of the other party's signature to the third page, as well as the cash register receipt or package label as proof of mailing.
- Fill in ALL information requested on the form before proceeding. Be sure you fill in the date the other party received the papers. If you are unsure of the date, use the date you received the return receipt card (if using Certified Mail). If you fail to list a date, the court may not process your papers and your case may be delayed and possibly dismissed.
- **COPY:** Make yourself a copy of the entire "Affidavit of Service by Signature Confirmation" including the third page with the return receipt card or copy of other document showing the signature of the other party acknowledging receipt of the documents for your records.

STEP 4: FILE PAPERS WITH THE COURT. File the complete Original "***Affidavit of Service by Signature Confirmation***" with attached signatures, return receipt, or other form of confirmation bearing the signature of the other party with the Clerk of the Court at any of these Superior Court locations:

**Yuma County Justice Center
250 W. 2nd Street
Yuma, Arizona 85365**

STEP 5: COUNT. Note the date the other party was served the papers and start counting the days the other party has to file a Response or Answer. When counting the days, start counting with the day **after** the other party signed the receipt.

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Plaintiff OR ☐ Defendant

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of: _____

Case Number: _____

Name of Plaintiff

DECLARATION SUPPORTING PUBLICATION A.R.C.P. 4.1, 4.2

Name of Defendant

UNDER PENALTY OF PERJURY I make this declaration to inform the Court why service by publication was necessary, and to show how service by publication was done.

1. **SERVICE BY PUBLICATION** is the best way to notify the other party of this court case because the other party is:

- ☐ Avoiding service of process, or
- ☐ The residence and location of the persons to whom notice was given by publication is unknown to me. I have made every reasonable effort to find those persons but despite a diligent search have been unable to find an address or location and to have the court papers personally served.

Note: If the Court is *not satisfied* that you have made *every reasonable effort* to locate the other party, you may be required to take additional steps adding delay and expense to your case, including being required to publish notice again.)

2. **I TOOK THE FOLLOWING ACTIONS BEFORE RESORTING TO PUBLICATION:**

- ☐ I mailed, postage prepaid, a copy of the following legal documents to the *last known address of the person(s) entitled to notice on or before the first date of publication:**
(List title of each document *and the address mailed to* below.)

Name & Address

Mailed to:

(continues)

OR

- ☐ I do not know and have never known of ANY address for the other party.
He or she never lived at my address, and I have not mailed copies of the court papers.*

*** IF the person entitled to Notice put in a mail forwarding order, mailing to the last known address (even if this is *your* address and you *know* the person is no longer there) should result in delivery of the court papers.**

IF the person entitled to Notice did NOT put in a mail forwarding order, and the mail is returned to you as "Undeliverable", this may be helpful in demonstrating your good faith, reasonable efforts to have notice delivered.

- ☐ I also sent scanned copies of the documents to the other party's email address at:
(address) _____ on (date): _____ *

I took the following actions to try to locate the other party: (Check all that apply. Supply details.)

- ☐ Checked the jail in Yuma County and/or: _____
- ☐ Checked state prisons (Dept. of Corrections) in Arizona and/or: _____
- ☐ Checked phone directories ☐ Checked court records at: _____
- ☐ Contacted Post Office for forwarding address information.
- ☐ Checked obituaries at: (List where) _____
- ☐ Searched the Internet* at: (Check all that apply. List others.) ☐ Facebook ☐ MySpace
☐ Windows Live (Live.com) ☐ LinkedIn.com ☐ Spokeo.com ☐ Friendster.com
☐ Other Internet sites _____

*** I UNDERSTAND:**

1. I UNDERSTAND searching online and emailing alone are not enough to justify service by publication;
2. I UNDERSTAND If these are the only efforts i made to locate and actually serve notice, the court will not approve service by publication, and:
 - a. My case will be delayed,
 - b. Could be dismissed, and
 - c. I may have to take additional steps at my own expense, including having to publish notice again;
3. I UNDERSTAND that if my case is dismissed for failure to properly serve notice within the time limits set by law:
 - a. I will not get a refund of any fees paid,
 - b. I may have to start over, fill out all forms, and file the forms again, and
 - c. I may have to pay all fees, including filing fees and cost of publication *again*.

SIGN BELOW to indicate you have read and understand the above.

(Your Signature)

(Your Printed Name)

I contacted the persons listed below to try to get information about the location of the other party:

- Name: _____
Last Known Address: _____
How I contacted this person: _____
Relationship to Other Party: _____
Examples: friend, ex-wife, parent, brother, roommate, co-worker, employer)
- Name: _____
Last Known Address: _____
How I contacted this person: _____
Relationship to Other Party: _____
- Name: _____
Last Known Address: _____
How I contacted this person: _____
Relationship to Other Party: _____
- Name: _____
Last Known Address: _____
How I contacted this person: _____
Relationship to Other Party: _____
- Name: _____
Last Known Address: _____
How I contacted this person: _____
Relationship to Other Party: _____

3. **MILITARY STATUS OF OTHER PARTY:**

☐ To the best of my knowledge, information, and belief, the other party is not in the military service of the United States.

4. **PUBLICATION INFORMATION: The following documents were published in a newspaper in the county where my case is pending.** (List title/name of each document. Example: Complaint, Summons)

The documents above were published on the following dates:

A. _____ B. _____ C. _____ D. _____
 Month/Date/Year Month/Date/Year Month/Date/Year Month/Date/Year

AND/OR

The documents above were published in a newspaper in the Arizona county of the other party's last known address, _____ County, or if no newspaper is published in that county, in adjoining _____ County, and neither is the county in which my case is pending.

The documents above were published on the following dates:

A. _____ B. _____ C. _____ D. _____
 Month/Date/Year Month/Date/Year Month/Date/Year Month/Date/Year

5. (REQUIRED) **A copy of the "Affidavit of Publication" and the actual Notice that was published is attached.** (The newspaper will send this to you after the last Notice has been published.)

UNDER PENALTY OF PERJURY

By signing below, I declare to the Court that I read, understood, and completed this document, and the information I have provided is true and correct under penalty of perjury.

 Date

 Signature

 Printed Name

(Attach the **AFFIDAVIT OF PUBLICATION** supplied by the newspaper that published Notice.)

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

For Clerk's Use Only

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Plaintiff OR ☐ Defendant

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the matter of:

Case Number: _____

Name of Plaintiff

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

Name of Defendant

FROM THE STATE OF ARIZONA TO: _____
Name of Defendant

1. A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the Complaint is attached to this Notice. The Complaint has been filed in the Superior Court of the State of Arizona in and for the County of Yuma and has been assigned case number _____.
2. This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed Waiver of Service in order to save the cost of serving you with a judicial summons and an additional copy of the Complaint. The cost of service will be avoided if I receive a signed copy of the Waiver within thirty (30) days (or sixty (60) days if located in a foreign country) after the date designated below as the date on which this Notice of Lawsuit and Request for Waiver of Service of Summons is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the Waiver of Service is also attached for your records.

3. If you comply with this request and return the signed Waiver of Service, the waiver will be filed with the Court and no summons will be served on you. The action will proceed as if you had been served on the date the waiver is filed, and you will be required to answer or otherwise respond to the Complaint within sixty (60) days from the date designated below as the date on which this notice is sent (or within ninety (90) days from that date if your address is not in any judicial district of the United States).
4. If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Arizona Rules of Civil Procedure and then, to the extent authorized by those Rules, I will ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to avoid unnecessary cost of service of summons, which is set forth at the end of the enclosed "Waiver of Service of Summons" form.

I affirm that this Notice of Lawsuit and Request for Waiver of Service of Summons is being sent to you on behalf of the Plaintiff on the date indicated below.

NOTICE AND REQUEST SENT this _____ day of _____ 20____.

Signature of Plaintiff or Plaintiff's Attorney

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

For Clerk's Use Only

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Plaintiff OR ☐ Defendant

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

Name of Plaintiff

Case No. _____

Name of Defendant

WAIVER OF SERVICE

A.R.C.P. Rule 4 (f)

TO: _____
(Name of Plaintiff or Plaintiff's Attorney)

ACKNOWLEDGMENT OF WAIVER OF SERVICE. I acknowledge receipt of your request that I waive service of a summons in regards to the above referenced action.

I also have received a copy of the **Complaint** and **Certificate of Compulsory Arbitration** in the action, **two** copies of this **Waiver of Service**, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by the Arizona Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

DEFAULT JUDGMENT. I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within sixty (60) days after this waiver was sent, which was ____/____/____ (date sent), or within ninety (90) days after that date if the request was sent outside the United States.

I swear or affirm under penalty of perjury that the contents of this Waiver are true and correct to the best of my knowledge and belief.

Signature of Defendant

Date

Printed Name of Defendant

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4.1 and Rule 4.2 of the Arizona Rules of Civil Procedure require certain parties to cooperate in saving unnecessary cost of service of the summons and a pleading. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States, to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought into an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on this waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

For Clerk's Use Only

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Plaintiff OR ☐ Defendant

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

Case No: _____

(Name of Plaintiff)

(Name of Defendant)

ACCEPTANCE OF SERVICE A.R.C.P. Rule 4(f)

Read Carefully. By signing your name on the next page in the presence of a Notary Public or a Clerk of the Superior Court, you are stating under oath or affirmation that you have read this document and understand its contents and that you have received and accepted the documents listed.

Accepting these papers does not affect your right to disagree with them.

- 1. ACCEPT SERVICE.** I accept service of process, and understand by accepting these papers; it is the same as if I were personally served under Arizona Law. [Rule 4, Arizona Rules of Civil Procedure]
- 2. RESPONSE DEADLINE.** I understand that accepting service of these court papers does not affect my right to file a written Response or Answer to this action if I disagree. I understand that if I do not agree with any relief asked for in the Complaint, I must Respond or Answer within **20** days from the day I signed the original of this Acceptance of Service if I accepted service in Arizona or within **30** days if I accepted service of the papers somewhere other than Arizona.
- 3. DEFAULT JUDGMENT, ORDER OR DECREE.** I understand that if I do not appear and defend in this action in court, within the time allowed by law, that I may lose my right to be heard in this case. I understand that failure to Respond or Answer could result in the Court giving the other party any and all things requested in his or her legal papers, through a Default Judgment, Order or Decree.

On the following page, list *each* individual document received.

Case Number: _____

4. LIST OF DOCUMENTS:

I have received and voluntarily accept service of the legal documents listed below:

(List name/title of document. Example: "Complaint", "Summons".)

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

UNDER OATH OR BY AFFIRMATION

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Signature

Date

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public