

Service of Process Compliance Checklist

Step-by-step guide to legally valid service under FRCP Rule 4 and state rules

- ✓ Complete FRCP Rule 4 service requirements
- ✓ Service methods by defendant type (individual, business, government)
- ✓ State-specific service rules and variations
- ✓ Common defective service mistakes and how to avoid them

FRCP Rule 4 Service Requirements

Federal Rules of Civil Procedure — Service Basics

Who Can Serve (Rule 4(c))

- ☐ Any person who is at least 18 years old
- ☐ Not a party to the action
- ☐ Court may appoint a special server by order

Time Limit (Rule 4(m))

- ☐ Service must be completed within 90 days after the complaint is filed
- ☐ Court may extend time for good cause
- ☐ Failure to serve within 90 days → court must dismiss WITHOUT prejudice (or order service within specified time)

Waiver of Service (Rule 4(d))

- ☐ Plaintiff may request waiver by mailing copy of complaint + 2 waiver forms + prepaid return envelope
- ☐ Defendant has 30 days (60 days if outside U.S.) to return waiver
- ☐ Defendant who waives gets 60 days (90 if outside U.S.) to answer (vs. 21 days if personally served)
- ☐ Defendant who refuses waiver without good cause must pay service costs

The 90-Day Rule is Strict.

If the plaintiff fails to serve the defendant within 90 days of filing, Rule 4(m) requires the court to dismiss the action without prejudice — or order that service be made within a specified time. Do not let this deadline lapse.

Service Methods by Defendant Type

Defendant Type	Service Method	Rule	Key Requirements
Individual (U.S.)	Personal delivery	FRCP 4(e)(2) (A)	Hand-deliver summons + complaint to the individual
	Substituted service	FRCP 4(e)(2) (B)	Leave at dwelling with person of suitable age and discretion who resides there
	Authorized agent	FRCP 4(e)(2) (C)	Deliver to agent authorized by appointment or law
	State-law methods	FRCP 4(e)(1)	Any method permitted by state where federal court sits OR where service is made
Corporation / Partnership	Officer, managing agent, or authorized agent	FRCP 4(h)(1) (B)	Deliver to an officer, managing or general agent, or any agent authorized to receive process
	State-law methods	FRCP 4(h)(1) (A)	Same methods as for individuals under 4(e)(1)
U.S. Government	U.S. Attorney + Attorney General	FRCP 4(i)(1)	Must serve BOTH the local U.S. Attorney (or designee) AND the Attorney General in DC
U.S. Agency / Officer	Agency + U.S. Attorney + AG	FRCP 4(i)(2)	Serve the agency AND the U.S. Attorney AND the Attorney General
State / Local Government	Chief executive officer	FRCP 4(j)(2)	Deliver to chief executive officer OR serve per state law
Foreign Government	Hague Convention	FRCP 4(f)	Via the Hague Service Convention or as directed by court order
Minor / Incompetent	Per state law	FRCP 4(g)	Serve as prescribed by law of the state where service is made

Serving a Business?

Always check with the Secretary of State for the company's registered agent. Service on a random employee — even a receptionist — is NOT valid service on the entity under FRCP 4(h).

Proof of Service Requirements

Filing Proof of Service — What the Court Needs

Affidavit of Service Must Include

- ☐ Server's name, age (must be 18+), and address
- ☐ Confirmation server is not a party to the action
- ☐ Date and time of service
- ☐ Location where service was made (specific address)
- ☐ Method of service (personal, substituted, other)
- ☐ Description of person served (if personal: name; if substituted: name, relationship, age, and physical description)
- ☐ Description of documents served (summons, complaint, exhibits)
- ☐ Signature of server under oath or penalty of perjury
- ☐ Notarization (required in many jurisdictions)

Filing Requirements

- ☐ Proof of service must be filed with the court (Rule 4(l))
- ☐ Not required for waiver of service (the returned waiver is filed instead)
- ☐ Failure to file does NOT affect validity of service — but file promptly to avoid disputes

Defective Proof of Service = Motion to Quash.

If your affidavit of service is missing any required element, opposing counsel can move to quash service — resetting the clock and potentially causing statute of limitations issues.

Common Defective Service Mistakes

Top 10 Service Errors That Get Cases Dismissed

- 1 Serving the wrong person.** Delivering papers to a neighbor, coworker, or minor child instead of the named defendant or person of suitable age and discretion.
- 2 Serving at the wrong address.** Using a stale address without verification. Always skip-trace to confirm current address before attempting service.
- 3 Missing the 90-day deadline.** FRCP Rule 4(m) requires service within 90 days. Calendar this deadline immediately upon filing.
- 4 Serving a business employee instead of registered agent.** A receptionist is NOT an authorized agent under FRCP 4(h). Check Secretary of State for the registered agent.
- 5 Inadequate substituted service.** Leaving papers with someone who doesn't reside at the dwelling (visiting guest, house cleaner) or who is too young to be "of suitable age and discretion."
- 6 No proof of service filed.** Forgetting to file the affidavit with the court. Without proof on record, you can't get a default judgment.
- 7 Party to the action serving papers.** Under FRCP Rule 4(c), the plaintiff CANNOT serve their own papers. Must be a non-party who is 18+.
- 8 Failing to serve all required parties.** For U.S. government defendants, you must serve the U.S. Attorney AND the Attorney General — missing one is defective.
- 9 Improper service by mail in non-mail states.** Not all states allow service by mail for all document types. Check state rules before using mail service.
- 10 Using uncertified server in certification-required states.** In Texas, Arizona, and other states, using an uncertified server renders service invalid.

State-Specific Rules Quick Reference

Key State Variations to Watch For

State	Notable Rule	Watch For
California	CCP 415.10-415.50	Substituted service requires "reasonable diligence" (2-3 attempts) first; then leave with co-occupant + mail a copy
New York	CPLR 308	"Nail and mail" (affix to door + mail) permitted after due diligence; must file within 20 days
Texas	TRCP 106-107	Certified process server required; substituted service requires court order
Florida	Fla. Stat. 48.031	Personal service or substituted service on family member 15+ residing at same address
Illinois	735 ILCS 5/2-203	Service on individual by leaving at usual abode with family member 13+ years old
New Jersey	R. 4:4-4	Permits service by mail with simultaneous regular mail
Massachusetts	Mass. R. Civ. P. 4(d)	Service by constable or sheriff preferred; last-and-usual-abode service permitted
Georgia	O.C.G.A. 9-11-4	Acknowledging service by signing is valid; no licensing requirement for servers
Washington	CR 4(d)	Substituted service: leave with person of suitable age at dwelling + mail copy
Arizona	ARCP 4.1	Must use registered process server; 3 attempts before alternative service

Always check BOTH federal and state rules.

FRCP Rule 4(e) permits service by "following state law for serving a summons" in the state where the district court is located OR where service is made. This gives you multiple options — use the method most likely to succeed.

Service Timeline Planner

Service of Process Timeline — From Filing to Proof

Visual timeline

Day	Action	Notes
Day 0	Complaint filed	90-day clock starts (FRCP 4(m))
Day 1-3	Skip trace / address verification	Confirm current address before assigning
Day 3-5	Assign process server	Provide all documents, defendant info, and special instructions
Day 5-10	First attempt	Most successful serves happen on 1st or 2nd attempt
Day 10-15	Second attempt (different time/ day)	Vary time of day; try morning, evening, weekend
Day 15-20	Third attempt + alternate method	If personal service fails, consider substituted service
Day 20-30	Stakeout or skip trace (if evasive)	Advanced tactics for hard-to-serve defendants
Day 30-45	Alternative service motion (if needed)	Motion for service by publication, email, or social media
Day 45-60	Complete service	Affidavit signed and notarized
Day 60-75	File proof of service with court	Don't wait — file promptly
Day 90	DEADLINE	Service must be complete or motion to extend filed

Don't wait until day 80.

If service is proving difficult, file a motion for extension of time BEFORE the 90-day deadline expires. Courts grant extensions for good cause — but only if you ask before the deadline.

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