

# **APPENDIX**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

DEC 3 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

PAUL E. JOZWIAK,

Plaintiff-Appellant,

v.

RAYTHEON MISSILE SYSTEMS; et al.,

Defendants-Appellees.

No. 20-17361

D.C. No. 4:20-cv-00039-DCB  
District of Arizona,  
Tucson

ORDER

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

We treat Jozwiak's motions for reconsideration (Docket Entry Nos. 18, 21, and 25) as a petition for panel rehearing and deny the petition. Jozwiak's petition for rehearing en banc (Docket Entry No. 25) is rejected as untimely.

Jozwiak's other pending motions and requests (Docket Entry Nos. 19, 20, 22, 23, and 24) are denied.

No further filings will be entertained in this closed case.

**Plaintiff's  
APPENDIX-A**

**NOT FOR PUBLICATION**

**FILED**

**UNITED STATES COURT OF APPEALS**

**AUG 26 2021**

**FOR THE NINTH CIRCUIT**

**MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**

**PAUL E. JOZWIAK,**

**Plaintiff-Appellant,**

**v.**

**RAYTHEON MISSILE SYSTEMS; et al.,**

**Defendants-Appellees.**

**No. 20-17361**

**D.C. No. 4:20-cv-00039-DCB**

**MEMORANDUM\***

**Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding**

**Submitted August 17, 2021\*\***

**Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.**

Paul E. Jozwiak appeals pro se from the district court's judgment dismissing his action alleging federal claims arising from the termination of his employment and benefits. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to serve the summons and complaint

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

**Plaintiff's  
APPENDIX-B**

under Federal Rule of Civil Procedure 4(m). *Oyama v. Sheehan (In re Sheehan)*, 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion by dismissing Jozwiak's action because Jozwiak failed to effect proper service of the summons and amended complaint after being given notice and repeated opportunities and directives to do so. *See* Fed. R. Civ. P. 4(m) (outlining requirements for proper service and explaining that a district court may dismiss for failure to serve after providing notice and absent a showing of good cause for failure to serve); Ariz. R. Civ. P. 4.1-4.2 (outlining requirements for proper service); *In re Sheehan*, 253 F.3d at 512-13 (discussing good cause and district court's broad discretion to dismiss an action).

The district court properly dismissed Jozwiak's original complaint with leave to amend for failure to comply with Federal Rule of Civil Procedure 8(a)(2). *See* Fed. R. Civ. P. 8(a)(2) (pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); *McHenry v. Renne*, 84 F.3d 1172, 1179-80 (9th Cir. 1996) (affirming dismissal of complaint that failed to set forth simple, concise and direct averments); *see also Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii) is reviewed de novo); *Dominguez v. Miller (In re Dominguez)*, 51 F.3d 1502, 1508 n.5 (9th Cir. 1995) (dismissal under Fed. R. Civ. P. 8 is

reviewed de novo).

We reject as without merit Jozwiak's contentions that the district court was biased.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

**AFFIRMED.**

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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Paul E Jozwiak,

10 Plaintiff,

11 v.

12 Raytheon Missile Systems, et al.,

13 Defendants.  
14

**NO. CV-20-00039-TUC-DCB**

**JUDGMENT IN A CIVIL CASE**

15 **Decision by Court.** This action came for consideration before the Court. The  
16 issues have been considered and a decision has been rendered.

17 IT IS ORDERED AND ADJUDGED that pursuant to the Court's order filed  
18 November 6, 2020, judgment is entered in favor of defendant and against plaintiff.  
19 Plaintiff to take nothing, and complaint and action are dismissed for failure to comply  
20 with the Court's order.

21 Debra D. Lucas

22 District Court Executive/Clerk of Court

23 November 6, 2020

24 s/ C. Ortiz

25 By Deputy Clerk  
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**Plaintiff's  
APPENDIX-C**

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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Paul E Jozwiak,

10 Plaintiff,

11 v.

12 Raytheon Missile Systems, et al.,

13 Defendants.  
14

No. CV-20-00039-TUC-DCB

**ORDER**

15 On October 14, 2020, this Court for the first time approved alternative service by  
16 mail, granted the Plaintiff one-last 30-day extension of time to complete service, and  
17 ordered the Plaintiff to serve the Defendants alternatively at their last known home  
18 addresses. The Court ordered the Plaintiff to include in the service packet a copy of the  
19 Order approving the alternative method of service and directing any Defendant so served  
20 to respond. (Order (Doc. 44)). The Order expressly stated: "NO FURTHER EXTENSIONS  
21 SHALL BE GRANTED. Failure to comply with this Order for serving the Defendants  
22 within the time allowed shall result in dismissal of this action, without further notice to the  
23 Plaintiff." *Id.* at 4.

24 The Plaintiff has chosen to not comply with this Order and instead responded that  
25 the Court failed to properly consider the rules of service and drew erroneous conclusions.  
26 (Response (Doc. 47.)) The Court considered the exact rules which are the subject of the  
27 Plaintiff's Response when it issued its October 14, 2020, Order. The Court will not  
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**Plaintiff's  
APPENDIX-D**

1 reconsider its directives issued on October 14, 2020. Pursuant to those directives and notice  
2 given therein, the Court dismisses this case.

3 **Accordingly,**


4 **IT IS ORDERED** that the Motion for Entry of Default (Doc. 45) is **DENIED**.

5 **IT IS FURTHER ORDERED** that this matter is dismissed for lack of service,  
6 pursuant to Fed. R. Civ. P. 4, and for failure to comply with Court directives.

7 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter Judgment,  
8 accordingly, and close this case.

9 Dated this 5th day of November, 2020.

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David C. Bury  
United States District Judge



SEP 07 2021

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUITFILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE \_\_\_\_\_ INITIAL \_\_\_\_\_Form 27. Motion for **Reconsideration & Transfer To DC Court Of Appeals!**Instructions for this form: <http://www.ca9.uscourts.gov/forms/form27instructions.pdf>9th Cir. Case Number(s) **20-17361**Case Name **Paul E. Jozwiak, Appellant vs. AZ District Judge David C. Bury**Lower Court or Agency Case Number **4:20-cv-00039-DCB**What is your name? **Paul E. Jozwiak**

## 1. What do you want the court to do?

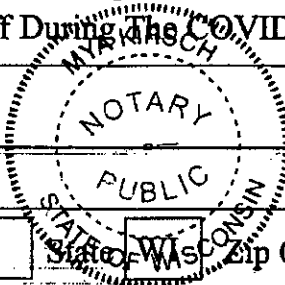
The Plaintiff Requests This Court Reconsider Its Actions and/or Rulings and Immediately Transfer This Case To The DC Court Of Appeals Due To Their Violations Of 28 U.S.C. § 1331, 42 U.S.C. § 1983 and Article III, Section 2 Of The Constitution Which Falls Under Subject-Matter Jurisdiction!!

## 2. Why should the court do this? Be specific. Include all relevant facts and law that would persuade the court to grant your request. (Attach additional pages as necessary. Your motion may not be longer than 20 pages.)

It Has Been Found This Appeals Court Violated State and/or Federal Laws Including Civil Rights and Constitutional Law When They Exceeded Their Judicial Authority By Ruling Upon This Case Which They Had NO Legal Jurisdiction To Preside Over! It Was Clearly Stated Within The Plaintiff's Appeals Brief and His Motions To Transfer The Case To The DC Court Of Appeals, This Case Involved The Interpretation and/or Application Of Law With The Rights Of A Plaintiff During The COVID Pandemic!

Your mailing address:

404 South Cedar Ave.,

City **Marshfield**THIS INSTRUMENT WAS ACKNOWLEDGE  
BEFORE ME ON **9/3/21**BY **Paul Jozwiak**

NOTARY PUBLIC

State of **WI**Zip Code **54449**COUNTY, **WOOD**My Commission Expires **11/1/21**Prisoner Inmate or A Number (if applicable) **-----N/A-----**

Signature

**Paul Jozwiak**

Date

**09-03-2021**Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Attachment To Form-27:** Motion For Reconsideration & Transfer To DC Court  
Of Appeals!  
**9th Cir. Case Number(s):** 20-17361  
**Lower Court or Agency** 4:20-cv-00039-DCB  
**Case Number:**

Relevant Facts and Laws That Support Plaintiff's Claims To The Court.

**STATEMENT OF PROVEN FACT & LAW**

- A) In Response To The 9<sup>th</sup> Circuit Court Of Appeals Statement Made Against The Plaintiff Claiming, "We have jurisdiction under 28 U.S.C. § 1291", This Was Found and Proven To Be A FALSE Claim and A SERIOUS-VIOLATION Of Article III, Section 2 Of The U.S. Constitution Due To The Following Reasons:
- 1) It Was Clearly Stated and Proven In The Plaintiff's Appeals Brief, No: 20-17361, Under Subject Matter And Jurisdiction Found On Page 5, "This Case Raises Federal Questions Under 28 U.S.C. § 1331, Due To The COVID Pandemic and Civil Rights Questions Under 42 U.S.C. § 1983"!
  - 2) Article III, Section 2 Of The Constitution Provides That Federal Courts Are To Hear Cases "Arising Under" Questions Regarding Federal Law!
  - 3) The Federal Questions Involved The Service Of A Court Summons and Other Court Documents During The COVID Pandemic With The Interpretation and/or Application Of These Laws By The Court, A Judge and/or Others!
  - 4) This Appeals Case Involved Fed. R. Civ. P. Rule 4, Issuing A Summons and Fed. R. Civ. P. Rule 12, Responding To A Summons With Other Laws During The COVID Pandemic!
  - 5) The Plaintiff's Motion For Transferring Case To Federal DC Court Of Appeals, Dated: 02-15-2021 and Entered Into The Court Of Appeals Record On: 02-19-2021 [Doc. 9] Clearly Stated:
    - a) The Case Involves Unforeseen Issues Regarding The Function Of The Courts, Mail-Services, Process-Servers and Others Due The COVID Pandemic!
    - b) A Court Practice and/or Ruling Conflicts With The Written-Law By Another Court Or That Of The Supreme Court!
    - c) A Court Practice and/or Ruling Conflicts With That Of Its Previous Practices and/or Rulings Resulting In A Double Standard!

- 6) The Appeals Court Violated The 28 U.S. Code § 1404(a) Laws and The Plaintiff's Civil and Constitutional Rights Regarding A Change Of Jurisdiction and Venue Which Clearly States, "*For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.*"! This Was Done Without The Defendants and/or Others Responding To The Court and/or Plaintiff's Multitude Of Notices, Without The Defendants and/or Others Filing The Required Motions For A Change Of Venue and Without The Plaintiff Being Advised Of This Impending Action By This Appeals Court!
- 7) It Was Well Documented, Publicized and Proven To The Court and Public, The Service Of A Court Summons and Other Court Documents Were Adversely Affected By This COVID Pandemic! This Caused The United States Government, Many Governors, CDC, Mayors, Courts, Etc. To Issue Directives and/or General Orders Regarding Functions and/or Practices For The Courts and Process-Servers With Possible Alternative Methods Of Operation! Listed Below This Court Will Find THEIR-OWN General Order No. 75 Listed, Along With Others, (Which Were Well Known To This Appeals Court), That Validates The Plaintiff's Claims!
  - a) UNITED STATES DISTRICT COURT, DISTRICT OF CALIFORNIA, GENERAL ORDER No. 75, Dated: 03-30-2020
  - b) UNITED STATES DISTRICT COURT, DISTRICT OF COLUMBIA, MARYLAND and VIRGINIA, GENERAL ORDER No. 20-18 (BAH), Dated: 03-31-2020
  - c) COMMONWEALTH OF MASSACHUSETTS, SUPREME JUDICIAL COURT, In Re: COVID-19 (Coronavirus) Pandemic, Dated: 03-30-2021
  - d) UNITED STATES DISTRICT COURT, DISTRICT OF NEW YORK, GENERAL ORDER No. M10-468 / ECF No. 1, Dated: 03-13-2020
  - e) AND-MANY-OTHERS!!
- 8) In Reviewing The Ninth Circuit Court's Response, Submitted: 08-17-2021, and Filed: 08-26-2021, It Is Obvious To The Plaintiff and Others This Appeals Court Had Failed To Properly Review This Case Under The Appropriate Federal Laws and/or Rules! If They Had They Would Have Realized This Appeals Case Involved Questions Of Federal Law, Operations Of Courts During A Nation-Wide Shutdown and Documented Acts Of Judicial Misconduct!
- 9) The Thing Everyone Found Most Interesting Was This Appeals Court Never Mentioned NOR Addressed In Their Ruling Any Of The Stated Claims Regarding Questions Involving The Interpretation and/or Application Of Law For The Service-Of-Process and The Plaintiff's Rights Due To The COVID Pandemic Found Throughout The Plaintiff's Appeals Brief!
- 10) This Act Of Reassigning Jurisdiction Of This Case Without The Knowledge and Consent Of The Plaintiff Was A Clear Case Of Denying Due-Process To The Plaintiff Which Has

Caused The Court To **LOOSE-JURISDICTION** Under Proven Law and Ruling! Under The Supreme Court Ruling It Has Been Discovered That:

- a) Under (**Earle v. McVeigh, 91 US 503, 23 L Ed 398**) "*The VALIDITY of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard.*"! AND
- b) Under (**Prather v Loyd, 86 Idaho 45, 382 P2d 910**) "*The VALIDITY of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard.*"! AND
- c) Under (**Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608**), With (**Pennoyer v. Neff (1877) 95 US 714, 24 L ed 565**), With (**Thompson v. Whitman (1873) 18 Wall 457, 21 L ED 897**), With (**Windsor v. McVeigh (1876) 93 US 274, 23 L ed 914**) and (**McDonald v. Mabee (1917) 243 US 90, 37 Sct 343, 61 L ed 608**) "*An order that exceeds the jurisdiction of the court is VOID, and can be attacked in any proceeding in any court where the VALIDITY of the judgment comes into issue.*"!

B) In Response To The 9<sup>th</sup> Circuit Court Of Appeals Statement Made Against The Plaintiff Claiming, "*The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2)*", This Was Found and Proven To Be Another FALSE Claim and A SERIOUS-VIOLATION Of Article III, Section 2 Of The U.S. Constitution, The Plaintiff's First Amendment Rights and A Multitude Of State and/or Federal Laws For The Following Reasons:

- 1) It Was Clearly Stated and Proven In The Plaintiff's Appeals Brief, NO: 20-17361, Under Subject Matter And Jurisdiction Found On Page 5 That, "*This Case Raises Federal Questions Under 28 U.S.C. § 1331, Due To The COVID Pandemic and Civil Rights Questions Under 42 U.S.C. § 1983*"!
- 2) Article III, Section 2 Of The Constitution Provides That Federal Courts Are To Hear Cases "*Arising Under*" Questions Regarding Federal Law!
- 3) Under The Fed. R. App. P. 34(a)(2), Which This Appeals Court Claims As Their Right To Deny The Plaintiff's Oral Arguments, It Clearly States Under The Standards That, Oral Argument Must Be Allowed In Every Case Unless A Panel Of Three Judges Who Have Examined The Briefs and Record Unanimously Agree That An Oral Argument Is Unnecessary For Any Of The Following Reasons:
  - (A) The Appeal Is Frivolous; Or
  - (B) The Dispositive Issue Or Issues Have Been Authoritatively Decided; Or
  - (C) The Facts and Legal Arguments Are Adequately Presented In The Briefs and Record, and The Decisional Process Would Not Be Significantly Aided By Oral Argument.
- 4) Since This Appeals Court Failed To Provide To The Plaintiff Their Reasons and Proof For Their Ruling Under Fed. R. App. P. 34(a)(2), This Appeals Court Has Violated State and Federal Law While Violating The Civil and Constitutional Rights Of The Plaintiff By

Denying Him The Right To Respond and Due Process Of The Law Which Specifically Is His First Amendment Right, Being Freedom Of Speech Which Clearly States, "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*"!

- 5) Since This Court Violated The 28 U.S. Code § 1404(a) By Reassigning the Jurisdiction and/or Venue For The Case Without The Plaintiff's Knowledge Or Consent While Also Denying The Plaintiff's Motion For Transferring This Case To The Federal DC Court Of Appeals, (Motion Entered Into The Court Of Appeals Record On: 02-19-2021 [Doc. 9]), This Caused The Appeals Court To **LOOSE-JURISDICTION!**
- 6) One Must Remember That Due To The Documented and Proven Nature Of This Appeal and The Questions Regarding Federal Law With Its Interpretation and/or Application, By Written-Law This Court Never Had Full Jurisdiction Since They Were Only Required By Written-Law To Remand The Case To The Federal DC Court Of Appeals For A Proper Evaluation and Ruling!
- 7) Under The Supreme Court Ruling It Has Been Discovered That:
  - a) Under (**Earle v McVeigh, 91 US 503, 23 L Ed 398**) "*Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question.*"! AND
  - b) Under (**Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461**) "*A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights and is NOT entitled to respect in any other tribunal.*"!

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C) In Response To The 9<sup>th</sup> Circuit Court Of Appeals Statement Made Against The Plaintiff Claiming, "*We review for an abuse of discretion a dismissal for failure to serve the summons and complaint Under Federal Rule of Civil Procedure 4(m). Oyama v. Sheehan (In re Sheehan), 253 F.3d 507, 511 (9th Cir. 2001). We affirm.*", This Was Found and Proven To Be Another FALSE Claim and A Of SERIOUS-CONTRADICTION Of State and/or Federal Law!

**(SEE "D" BELOW FOR DETAILS PROVING THIS COURT'S CLAIM AS BEING FALSE)**

D) In Response To The 9<sup>th</sup> Circuit Court Of Appeals Statement Made Against The Plaintiff Claiming, "*Jozwiak failed to effect proper service of the summons and amended complaint after being given notice and repeated opportunities and directives to do so. See Fed. R. Civ. P. 4(m) (Outlining requirements for proper service and explaining that a district court may dismiss for failure to serve after providing notice and absent a showing of good cause for failure to serve)*", This Was Found and Proven To Be Another FALSE Claim and A

SERIOUS-CONTRADICTION Of 16 A.R.S. Rules of Civil Procedure, 4, 4.1, 4.2 and Representing Yourself In Federal Court In The District Of Arizona; Page 26, AZD Rev. October 2019!

- 1) The Fed. R. Civ. P. 4(m) Clearly States The Time Limit For Service As Being, *"If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."*
- 2) Under 16 A.R.S. Rules of Civil Procedure, 4, 4.1, 4.2 and Other State and/or Federal WRITTEN-LAW, It Is Found and Proven That Proper Service Is Accomplished By:
  - (a) **Rule 4. Issuance; Service.**
    - (3) **Service.** A summons must be served with a copy of the pleading.  
Service MUST be completed as required by this rule, Rule 4.1, or 4.2, as applicable.

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(g) **Rule 4. Return; Proof of Service.**

- (4) **Service by Publication.** If the summons is served by publication, the return of the person making such service must be made as provided in Rules 4.1(I) and 4.2(f).
- (6) **Validity of Service.** Failure to make proof of service does NOT affect the validity of service.

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(c) **Rule 4.1. Waiving Service.**

- (1) **Requesting a Waiver.** An individual, corporation, or association that is subject to service under Rule 4.1(d), (h)(1)-(3), (h)(4)(A), or (i) has a duty to avoid unnecessary expense in serving the summons. To avoid costs, the plaintiff MAY notify the defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request MUST:
  - (A) be in writing and be addressed to the defendant and any other person required in this rule to be served with the summons and the pleading being served;
  - (B) name the court where the pleading being served was filed;
  - (C) be accompanied by a copy of the pleading being served, two copies of a waiver form prescribed in Rule 84, Form 2, and a prepaid means for returning the completed form;
  - (D) inform the defendant, using text provided in Rule 84, Form 1, of the consequences of waiving and not waiving service;
  - (E) state the date when the request is sent;
  - (F) give the defendant a reasonable time to return the waiver, which MUST be at least 30-Days after the request was sent; and
  - (G) be sent by first-class mail or other reliable means.

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**(d) Rule 4.1. Serving an Individual.**

Unless Rule 4.1(c) Waiving Service, (e), (f), or (g) applies, an individual MAY be served by:

- (3) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

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**(i) Rule 4.1. Serving a Corporation, Partnership, or Other Unincorporated Association.**

If a domestic or foreign corporation, partnership, or other unincorporated association has the legal capacity to be sued and has not waived service under Rule 4.1(c), it MAY be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and--if the agent is one authorized by statute and the statute so requires--by also mailing a copy of each to the defendant.

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**(f) Rule 4.1. Service by Publication.**

- (1) Generally. A party MAY serve a person by publication only if:

- (A) the last-known address of the person to be served is Within Arizona but:

- (i) the serving party, despite reasonably diligent efforts, has been unable to ascertain the person's current address; or

- (ii) the person to be served has intentionally avoided service of process; and

- (B) service by publication is the best means practicable in the circumstances for providing the person with notice of the action's commencement.

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**(c) Rule 4.2. Service by Mail.**

- (1) Generally. If a serving party knows the address of the person to be served and the address is Outside Arizona but within the United States, the party MAY serve the person by mailing the summons and a copy of the pleading being served to the person at that address by any form of postage-prepaid mail that requires a signed and returned receipt.

- (2) Affidavit of Service. When the post office returns the signed receipt, the serving party MUST file an affidavit stating:

- (A) the person being served is known to be located Outside Arizona but within the United States;

- (B) the serving party mailed the summons and a copy of the pleading or other request for relief to the person by any form of mail described in Rule 4.2(c)(1);

- (C) the serving party received a signed return receipt, which is attached to the affidavit and which indicates that the person received the described documents; and

(D) the date of receipt by the person being served.

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**(d) Rule 4.2. Waiver of Service.**

(1) Requesting a Waiver. An individual, corporation, or association that is subject to service under Rule 4.2(b), (c), (h), (i), or (k) has a duty to avoid unnecessary expense in serving the summons. The plaintiff MAY notify the defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request MUST:

- (A) be in writing and be addressed to the defendant in accordance with Rule 4.2(b), (c), (h), (i), or (k), as applicable;
- (B) name the court where the pleading being served was filed;
- (C) be accompanied by a copy of the pleading being served, two copies of a waiver form set forth in Rule 84, Form 2, and a prepaid means for returning the completed form;
- (D) inform the defendant, using the text provided in Rule 84, Form 1, of the consequences of waiving and not waiving service;
- (E) state the date when the request is sent;
- (F) give the defendant a reasonable time to return the waiver, which MUST be at least 30-Days after the request was sent, or 60-Days after it was sent if it was sent outside any judicial district of the United States; and
- (G) be sent by first-class mail or other reliable means.

(2) Failure to Waive. If a defendant located within the United States fails without good cause to sign and return a waiver requested by a plaintiff located within the United States, the court MUST impose on the defendant:

- (A) the expenses later incurred in making service; and
- (B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

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**(f) Rule 4.2. Service by Publication.**

(1) Generally. A party MAY serve a person by publication only if:

- (A) the last-known address of the person to be served is Outside Arizona; but
  - (i) the serving party, despite reasonably diligent efforts, has not been able to ascertain the person's current address; or
  - (ii) the person has intentionally avoided service of process; and

(B) service by publication is the best means practicable in the circumstances for providing notice to the person of the action's commencement.

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**(h) Rule 4.2. Serving a Corporation, Partnership or Other Unincorporated Association Located Outside Arizona but Within the United States.**



If a corporation, partnership, or other unincorporated association is located outside Arizona but within the United States, it MAY be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and--if the agent is one authorized by statute and the statute so requires--by also mailing a copy of each to the defendant.

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**Representing Yourself In Federal Court In The District Of Arizona; Page 26, AZD Rev. October 2019, That It Clearly States:**

- **Service by publication in a newspaper.** *"Where the person to be served is one whose residence is unknown to the party seeking service but whose last known residence address was within the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of the institution of the action, then service may be made by publication in accordance with the entire requirements of 16 A.R.S. Rules of Civil Procedure, Rule 4.1(l) (See 16 A.R.S. Rules of Civil Procedure, Rule 4.1(l))"; Or*
- **Alternative or Substituted Service.** *"If service by one of the means set forth in the preceding methods proves impracticable, then service may be accomplished in such manner, "Other Than By Publication," as the court, upon motion and without notice, may direct; (See 16 A.R.S. Rules of Civil Procedure, Rule 4.1(k))".*

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Rules Regarding Signature-Services Operations For Mail and Packages During To The COVID Pandemic Found On The Official Mail Website: [https://faq.usps.com/s/article/USPS-Coronavirus-Updates-for-Residential-Customers#mailing\\_shipping](https://faq.usps.com/s/article/USPS-Coronavirus-Updates-for-Residential-Customers#mailing_shipping).

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**3) Proper Service Of These Court Summons and Other Required Court Documents Was Accomplished:**

- a) On June 17, 2020, The Court Document Packages With A Tracking-Number Were Sent With The Summons, Waiver-Of-Service and Other Required Documents By Using A Certified Registered-Mail Carrier In Compliance With Rule 4(a)(3), 4.1(c)(1) and 4.2(d)(1)! Due To The COVID Pandemic With Federal CDC Mandates In Effect, Most Or All Mail and/or Package Carriers Such As FEDEX, UPS, USPS and Others Had Already Suspended Their Signature-Services For Their Deliveries!
- b) Most Defendants Returned Their Court Document Packages To The Postal-Agent(s) and/or Plaintiff, However Some INADVERTENTLY Left Their Company's Own Internal Mail Delivery Label On The Packages Listing Them As Active Employees (Doc. 29, 34, 35, 36, 37)! The Company, Defendants and Others However Claimed By Labels and Writing On These Returned Packages They Were No-Longer-

- Employed By The Company and Were Unable To Forward These Documents Due To Being Unable To Locate The Defendants!
- c) On June 25, 2020, Service-By-Mail For The Waiver-Of-Service For The Court Summons and Other Court Documents Was Legally-Completed Which Was Prior To The September 13, 2020 Court's Issued Due Date.
  - d) Due To The Number Of Defendants Returning and/or Rejecting Their Court Summons and Waiver-Of-Service Documents, The Plaintiff Contacted The Private Investigator To Verify The Addresses and Identities Of The Defendants Was Still The Same As Discovered By This Private Investigator In 2019! **THEY-WERE!!**
  - e) Due To The Number Of Defendants Returning and/or Rejecting Their Court Summons and Waiver-Of-Service Documents, The Plaintiff Contracted Multiple Process-Servers A Second Time In An Attempt To Have Personal-Service Performed Upon These Defendants! At That Time These Process-Servers Claimed They Were Unable To Carry-Out These Services Due To:
    - 1) The Defendant Companies Being MetLife and Raytheon, and/or
    - 2) The Current COVID Pandemic and Its State and/or Federal Mandates Regarding The Performance Of Personal-Service Upon A Defendant, and/or
    - 3) The Inability To Serve These Court Summons Due To Being Unable To Locate and Serve Them Since Most Would NOT Be Working Or Would Be Working From Remote Sites Unknown To The Plaintiff and These Servers!
  - f) On August 10, 2020, The Plaintiff Also Had The Court's Summons Notice Served By Newspaper-Publication. This Service-By-Publication Was Carried Out Using Rule 4(g)(4), Rule 4(g)(6), Rule 4.1(l) and Rule 4.2(f), While Complying With The AZ District Court's Own Document Called, "Representing Yourself In Federal Court In The District Of Arizona", Page 26, AZD Rev. October 2019! There It Clearly States This Is NOT An Alternative-Means Of Service, Which Means It Does NOT Require The Court's Authorization!
  - g) On September 03, 2020, Service By Newspaper-Publication Was Legally-Completed Which Was Prior To The September 13, 2020 Court's Issued Due Date.
  - h) On September 21, 2020, The Postal-Agent(s) and/or Plaintiff Submitted To Court The Documents "Arizona Status For Proof Of Service With Mail Tracking and Newspaper Affidavit Reports For Court Ordered Summons". The Proof Of Mail-Service For Each Defendant That Was Submitted To The Court and Entered Into The Official Court Record Consisted Of:
    - 1) A ~~Copy Of The~~ 1st Page Of Form AO-440 (Rev. 06/12), Clerk Of Court Signed and Dated Court Summons Issued To Each Defendant!
    - 2) A Copy Of The 2nd Page Of Form AO-440 (Rev. 06/12), Postal Agent Signed, Dated and Stamped Proof Of Service Document For Each Defendant!

- 3) A Copy Of The Mail Tracking-Report Showing The Defendant's Package Date Of Delivery and Who Accepted and/or Signed For It!
- 4) A Copy Of The Mail Tracking-Report For Those Packages Rejected By A Defendant and The Date They Returned It To The Plaintiff!
- 5) A Copy Of The Image Of Each Returned Mail Package Showing:
  - (i) The Company's Own Internal Mail Delivery Label Proving The Defendant Was STILL Employed At The Company!
  - (ii) The Labels and Writing On The Package Which Falsely Claimed The Defendant Was No-Longer Employed At The Company!
  - (iii) The Labels and Writing On The Package Stating It Could Not Be Delivered By The Company Due To Their Being Unable To Locate The Defendant(s)!
- i) On September 21, 2020, The Postal-Agent(s) and/or Plaintiff Submitted To Court The Documents "Arizona Status For Proof Of Service With Mail Tracking and Newspaper Affidavit Reports For Court Ordered Summons". The Proof Of Service By Newspaper-Publication For Each Defendant That Was Submitted To The Court and Entered Into The Official Court Record Consisted Of:
  - 1) A Copy Of The 1st Page Of Form AO-440 (Rev. 06/12), Clerk Of Court Signed and Dated Court Summons Issued To Each Defendant!
  - 2) A Copy Of The 2nd Page Of Form AO-440 (Rev. 06/12), Server Signed and Dated Proof Of Service By Newspaper-Publication For Each Defendant!
  - 3) A Copy Of The Newspaper-Publication Tear-Sheets, (The Published Notice) From Each Newspaper / Other For Each Date Of Publication!
  - 4) A Copy Of The Signed, Dated and Notarized Newspaper-Affidavit From The Publisher Listing The Newspaper With The Publication Containing The Defendant's Name, Case Number, Dates In Which This Notice Was Published, Notice Of A Summons Issued Against Them, The Rules Of Procedure They Were To Follow In Responding To This Summons, The Time Limit In Which They Were To Respond and Who They Were To Respond To With The Appropriate Contact Information!
- j) On September 28, 2020, These Submitted Reports For Mail and Publication Service Were Entered Into The Court Record and Are Listed As (Doc. 20) Through (Doc. 41) With (Doc. 43).
- k) At This Point ALL Defendants Failed and/or Refused To Respond To Their Court Summons and Other Court Documents While Being Caught EVADING-SERVICE Of Their Court Summons!
- l) On October 14, 2020, (Doc. 44) Judge Bury Violated Written-Law and Entered A False Court Ruling Stating The Plaintiff Failed To Successfully Serve The Summons To The Defendants By Using An Unauthorized Alternative-Means! This Occurred

When The Plaintiff Petitioned The Court To Have The Defendants Ruled As Being In Default Due To The Documented Proof Showing They Had Failed To Respond and They Had EVADED-SERVICE Of Their Summons! Judge Bury ALSO Published Statements In The Court Record and Internet Websites That The Defendants Were-NOT-Required To Respond To Their Court Summons and Ordered The Plaintiff To Re-Serve The Summons and Other Documents Upon The Defendants By Certified-Mail Or Other Source Of Mail With A Signature-Proof-Of-Service For A SECOND-TIME!

- m) On November 03, 2020, The Postal-Agent(s) and/or Plaintiff Sent This New-Set Of Court Summons and Other Required Court Documents By Use Of The USPS Certified-Mail With A Signature- Service and Return-Receipt! (All Mail and/or Package Carriers STILL Had Their Signature-Services For Their Deliveries Suspended!)
- n) On November 10, 2020, This Service-By-Mail Was Legally-Completed Which Was Prior To The Court's November 12, 2020 New Due Date However:
  - 1) All The USPS Signature-Service Cards That Were Returned, Were Either Signed By The Postal Agents Themselves, Someone Other Than The Defendant Or Came Back On Their Unopened and Rejected Document Packages! This Was Found To Be Due To ALL The Defendants Either Refusing To Accept and/or Sign For These Court Summons and Other Documents!
  - 2) A Number Of These Returned USPS Signature-Service Cards Listed The Reason For The Defendants Refusal To Accept and/or Sign For Their Court Summons and Document Packages As Being Due To The COVID Pandemic!
- o) On November 03, 2020, The Plaintiff Was First Able To Enlist The Services Of Multiple Process-Servers To Attempt Personal Hand-Delivery. The Plaintiff Had The Same Court Summons and Documents, Mailed To The Defendants On November 03, 2020, Served Upon The Defendants By Use Of These Process-Servers!
  - 1) These Process Servers However Discovered Most Defendants Were Still Illegally BLOCKING and/or EVADING-SERVICE Of These Court Summons and Other Court Documents!
  - 2) This Personal Hand-Delivery Of The Court Summons and Other Court Documents Was Terminated Before Completion When It Was Discovered Judge Bury Had Wrongfully Dismissed The Case!
- p) Judge Bury Then Posted A Wrongful Dismissal Of The Plaintiff's Case, and Proven False Claims To Various Internet Websites Without The Plaintiff's Knowledge Claiming The Plaintiff Refused To Comply With Judge Bury's Orders To Re-Serve The Court Summons! Judge Bury Did This While Being Fully Aware The AZ Court Docket and/or Record For October 21, 2020, (Doc. 46) Showed The Plaintiff Was

Already Complying With The Court's Order To Re-Serve The New Summons and Other Documents Upon The Defendants By Mail A SECOND-TIME!

- q) Judge Bury Then Ordered The Plaintiff's Case File To Be Immediately-Closed and The AZ Clerk Of Court To REFUSE To Accept and/or Enter Any Further Court Documents and/or Evidence Into The Record! This Blocked The Entry Of The Last Mail Signature-Service Cards With Their Tracking Reports and The Process-Server's Affidavits Of Service In Which Both State and/or Prove The Defendants Were Continually EVADING-SERVICE Of Their Court Summons!
- 4) The Plaintiff, Private-Investigators, Process-Servers and Others Still Possess These Official Signed, Dated and Notarized Court Documents With All Evidence, (That Was Blocked From Entry Into The Court Record) Proving Due-Diligence and Proper-Service Of These Court Summons Upon The Defendants! This Evidence Proves Beyond Doubt Judge Bury Wrongfully Dismissed This Case While Blocking and/or Concealing Evidence Proving The Defendants Are Guilty Of EVADING-SERVICE!
- 5) As This Appeals Court Is Well Aware Of, The Proof-Of-Service Documentation In The Court Record Which Shows The Defendants and/or Raytheon Had On Numerous Occasions First Accepted Then Rejected and Returned Their Un-Opened Court Document Packages With Raytheon's Own Internal Mail Delivery Label Still Attached, Proves The Defendants Were Still Employed There! These Defendants and/or Raytheon Then Falsely Claimed They Were Unable To Locate These Defendants To Forward Their Documents!
- 6) It Has Been Proven These Employers and Their Administrators Are Required By Federal Employment, ERISA and/or Pension Laws To Keep and Maintain A Current List Of All Their Plan Participant Names and Address At All Times! This Is Due To Their Legal Requirement To Provide Regular Updates and/or Status Reports Of The Plan and Its Benefits To The Participants Under 29 U.S. Code § 1022 and 29 U.S. Code § 1024!
- 7) This Appeals Court Needs To VERY-CAREFULLY Consider This Evidence! If Raytheon's Claim Of The Defendants No-Longer Being Employed By Them and Their Being Un-Able To Locate and/or Forward Their Documents On To Them Is True, Then How Is It Possible For This Government Defense Contractor Who Is Required To Observe and Enforce Stringent Security-Protocols At All Times, So Completely Deficient and Derelict In Their Duties They Cannot Reliably Identify Who Their Own Employees Are (Past and/or Present) Or Where They Can Be Found?
- 8) This Violates Multiple Department Of Defense (DOD) Security Regulations, Employment and Other Laws Where Knowledge Of, Participation In and Concealment Of These Crimes and/or Violations Are Viewed As Willful Acts Of Fraud, Espionage and/or Worse! Under The DOD Security Regulations, All Violation Must Be Reported To Them and The Other Agencies So They May Launch An Investigation, Issue Arrest- Warrants, Fines, Sanctions and/or Other Penalties To Deal With These Crimes and/or Violations!

- 9) These Investigations Could and/or Would Result In Raytheon Finding Their Government Programs Suspended and/or Terminated While Restricting Or Prohibiting Them From Bidding On, Or Securing Future Government Contracts! As An Added Note, Failure and/or Refusal By Anyone (Agent Of The Court, Attorney, Raytheon Manager and/or Other) To Report A DOD Security Violation Is Itself Another Security Violation and MAY Have Very Serious Legal Consequences For Them!
- 10) Another Thing This Appeals Court Needs To Carefully Consider Is This! Why Did MetLife and/or Raytheon NOT Respond To Their Court Summons and Other Documents That Was Proven To Be Successfully-Served Upon Them NO Less Than 5-Times? The Only Logical and Sane Answer Is Because These Companies Decided To Defy The Law By REFUSING-TO-RESPOND To A Court Order and/or The Plaintiff's Case!
- 11) If One Were To Falsely Claim These Methods As An Alternative-Means, It Has Already Been Determined By Previous Court Rule Under:
- a) (Cascade Parc Property Owners Association, Inc., v. Clark, 336 Ga. App. 99, 783 S.E.2d 692 (2016)), *"On Appeal, Cascade Parc Claims The Trial Court Erred When It (1) Denied Cascade Parc's Motion For Service By Publication, and (2) Dismissed Cascade Parc's Complaint Sua Sponte For Failure To Perfect Service. We Agree and Reverse."* AND,
  - b) (Wentworth v. Fireman's Fund Am. Ins. Co., 147 Ga.App. 854, 854-55(1), 250 S.E.2d 543 (1978)) *"Where Due-Diligence Was Shown In Attempt To Track Down Defendant, The Request For Service By Publication Should Have Been Granted."* AND,
  - c) (Luca v. State Farm Mut. Auto. Ins. Co., 281 Ga. App. 658, 660-63(1), 637 S.E.2d 86 (2006)): *"Trial Court Abused Its Discretion In Denying Motion For Service By Publication."*
- 12) Upon Further Evaluation Of This Service Upon The Defendants, It Was Also Ruled That A Defendant's Failure and/or Refusal To Cooperate With A Court's Orders Was Ruled Under:
- a) (Newsome v. Johnson, 305 Ga. App. 579, 581-582(1), 699 S.E.2d 874 (2010)): *"The Defendant Attempting To Evade Service Cannot Seek To Benefit From Her Own Refusal To Cooperate."* AND,
  - b) (Verizon Trademark Servs., supra, 2011 WL 3296812), Quoting (Fernandez v. Chamberlain, 201 So. 2d 781, 786 (Fla. 2nd DCA 1967)): *"A Defendant With Knowledge Of The Action Cannot Be Allowed To Avoid Personal and Substitute Service Of Process By Failing To Retrieve His Own Mail and By Failing To Provide Relevant Information About His Whereabouts To Plaintiffs In Order To Permit Personal Service."*
- 13) The Plaintiff Could Produce Many Other Examples Of Case Rule That Reinforces His Claim The Defendants Were EVADING-SERVICE Of Their Summons, However The

Court Should Keep In Mind That Failure and/or Refusal To Respond To A Court Summons and Other Court Documents Served Upon A Defendant By Mail, Publication and/or Process-Server Is An Admission Of Their Guilt and Only Serves To Reinforce The Merits Of The Plaintiff's Case Against Them!

E) In Response To The 9<sup>th</sup> Circuit Court Of Appeals Statement Made Against The Plaintiff Claiming, "We reject as without merit Jozwiak's contentions that the district court was biased", This Was Found and Proven To Be Another FALSE Claim and A SERIOUS-CONTRADICTION Of Written-Law and The Rules Of Judicial Conduct!

- 1) As This Appeals Court Is Well Aware Of, Judge Bury's Documented Statements Dated **April 20, 2020**, (Doc. 11) Found Withing The Arizona Court Record Claims On Page-1, Line-18 and Line-19 He Denied The Plaintiff's In Forma Pauperis Status On **March 19, 2020**! Judge Bury Then States In The Footnotes On Page-1 Of This Same Document, *"The Court Mistakenly Denied Waiver Of The Filing Fee."*! For Judge Bury To Mistakenly Deny The Waiver Of The Filing Fee, Judge Bury Would Have ALSO Mistakenly Denied In Forma Pauperis Status For The Plaintiff Which He Is ADMITTING-TO-HAVE-DONE!
- 2) Judge Bury Then Failed and/or Refused To Correct His Known-Mistakes, But Used Them To Refuse The Plaintiff's Legally-Entitled-Request For The Summons Or Other Court Documents To Be Served By A Marshal Or Other Appointed By The Court Under Fed. R. Civ. P. Rule 4(c)(3)! Judge Bury Also Used His Known-Mistakes To Falsely Claim The Plaintiff Failed To Serve The Summons and Other Court Documents, Due To Using An Un-Authorized, Alternative-Means Of Service Without The Court's Approval!
- 3) On November 10, 2020, It Was Discovered That Judge Bury Had Been Posting False Claims About The Case To Various Internet Websites "[www.leagle.com/decision](http://www.leagle.com/decision)", "*The Independent Court Reporter*" and Others, Since **October 14, 2020**! A Number Of These False Claims Included:
  - a) His Stating: *"Consequently the defendants were NOT required to respond."* To The Service Of Their Summons Is A Clear Violation Of Law Being Publicly-Endorsed By Judge Bury, and Is Proven By The Court's Own-Documents and Written-Law!
  - b) His Stating He Was Immediately Dismissing The Plaintiff's Case: *"For lack of service pursuant to Fed. R. Civ. P.4 and for failure to comply with Court directives,"* and, *"The Plaintiff has chosen to NOT comply with this Order and instead responded that the Court failed to properly consider the rules of service and drew erroneous conclusions:"*, Is Proven To Be More False Claims Against The Plaintiff! It Is Well Documented In The Plaintiff's Response To The Court, Dated **October 26, 2020**, (Doc. 47) Page 14, Line 1 Through Line 13 The Plaintiff Was ALREADY-COMPLYING With The Court's Order To Re-Serve The Court Summons and Other Required Documents To The Defendants!

- c) It Was Also Discovered That Judge Bury Made These False Claims Against The Plaintiff, When The Court Docket For **October 21, 2020**, (Doc. 46) Showed The Plaintiff Had Already Obtained From The Clerk Of Court The New-Set Of Court Summons, and They Had Already Been Sent By Certified, Registered-Mail To The Defendants On **November 03, 2020!**
- 4) I Now Remind This Appeals Court, The Refusal By Judge Bury To Rule The Defendants and Their Attorneys In Default For Their Failure and/or Refusal To Respond To The Court Summons, As Required By Fed. R. Civ. P. Rule 12, Was Itself An Abuse Of Discretion and A Violation Of Law Which Was Found:
  - a) In (Koon v. United States, 518 U.S. 81, 100, 116 S. Ct. 2035, 135 L. Ed. 2d 392 (1996)); "*A district court by definition Abuses Its Discretion when it makes an error of law.*"!
  - b) In (Liteky v. U.S., 114 S. Ct. 1147, 1162 (1994)): "*If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified.*"!

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## SUMMARY

The 9<sup>th</sup> Circuit Court Of Appeals Act Of Claiming They Had Legal Jurisdiction. "*We have jurisdiction under 28 U.S.C. § 1291*", Proven To Be A FALSE Claim and A SERIOUS-VIOLATION Of State and/or Federal Laws Including That Of Civil and Constitutional Law Has Caused This Court To **LOOSE-JURISDICTION!** Since It Was Clearly Stated and Proven In The Plaintiff's Appeals Brief, No: 20-17361, Under Subject Matter And Jurisdiction Found On Page 5, "*This Case Raises Federal Questions Under 28 U.S.C. § 1331, Due To The COVID Pandemic and Civil Rights Questions Under 42 U.S.C. § 1983*"! and The Plaintiff's Motion For Transferring Case To Federal DC Court Of Appeals, Dated: 02-15-2021, Entered Into The Court Of Appeals Record On: 02-19-2021 [Doc. 9], This Court's Jurisdiction Extended Only To The Point They Were Required To Remand and/or Transfer It To The Federal CD Court Of Appeals OR The U.S. Supreme Court! As This Court Is Fully Aware, Article III, Section 2 Of The Constitution Provides That Federal Courts Are To Hear Cases "*Arising Under*" Questions Regarding Federal Law! Since This Case Involved The Federal Questions Involved The Service Of A Court Summons and Other Court Documents During The COVID Pandemic With The Interpretation and/or Application Of These Laws By The Court, A Judge and/or Others, This Could NOT Be More Clear To This Appeals Court and Therefore They Are To Immediately Suspend Their Ruling and Transfer This Case To The Proper Legal Authority With The Proper Jurisdiction and/or Venue So That It may Be Properly Reviewed and Ruled Upon Without Further Violation Of Laws Of This Land!

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Signed: The Plaintiff-Appellant

Paul Jozwiak

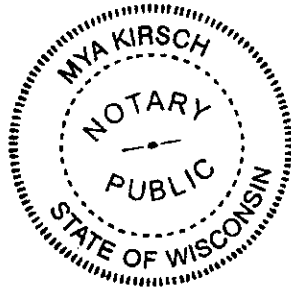
Paul E. Jozwiak, Pro Se

404 South Cedar Ave.,

Marshfield, WI 54449

Phone: (520)-818-4976

E-Mail: Orion5x5x9@yahoo.com



THIS INSTRUMENT WAS ACKNOWLEDGED

BEFORE ME ON

9/3/2021

BY

Paul Jozwiak

[Signature]

NOTARY PUBLIC

Wood

COUNTY, WI

My Commission Expires

11/11/21

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2 404 South Cedar Ave.,  
3 Marshfield, WI 54449  
4 Phone: (520)-818-4976  
5 E-Mail: orion5x5x9@yahoo.com

6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Paul E. Jozwiak,  
9  
10 [Claimant/Plaintiff],

11 VS.

12 Raytheon Missile Systems;  
13 MetLife Disability;  
14 Beth A. Green;  
15 Dr. Arthur J. Bacon;  
16 Dr. Karen A. Haas;  
17 Dr. John L. Schaller;  
18 Dianne D. Avellar;  
19 Guy C. Slominski;  
20 Joanne Bockmiller;  
21 Mary W. Richardson;  
22 Pat M. Brutscher;  
23 Sean T. Kurysh;  
24 Veronica Thomas,

25 and

26 Others As They Become Available.

27 [Defendants].  
28

**REQUEST FOR ASSOCIATE  
JUDGE TO REVIEW JUDGE  
DAVID C. BURY'S ORDER  
OF DISMISSAL**

For

No. CV-20-39-TUC-DCB

**Plaintiff's  
APPENDIX-F**

1       **REQUEST FOR ASSOCIATE JUDGE TO REVIEW JUDGE**  
2       **DAVID C. BURY'S ORDER OF DISMISSAL**

3  
4       This Is The Plaintiff's FORMAL-REQUEST For An Associate Judge  
5       To Review The Court's ORDER Handed Down By Judge **David C. Bury**,  
6       On November 5, 2020, (Doc. 48) DISMISSING His Case Under The False-  
7       Claims That, "The Plaintiff has chosen to not comply with this Order and  
8       instead responded that the Court failed to properly consider the rules of  
9       service and drew erroneous conclusions"!

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12       It Was Discovered This Court Opinion By Judge **David C. Bury** Was  
13       Posted To Multiple Internet Websites Without Ever Notifying The Plaintiff  
14       Of This Adverse Action and/or Decision. Judge **Bury** Also Stated In These  
15       Internet Postings He Was Immediately DISMISSING The Plaintiff's Case,  
16       "For lack of service pursuant to Fed. R. Civ. P.4 and for failure to comply  
17       with Court directives" (Doc. 48) Which Was Also Found To Be Proven  
18       False-Claims If One Reviews (Doc. 46 and 47)!

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21       If One Would Review The, "PLAINTIFF'S RESPONSE TO THE  
22       COURT'S ORDER DATED 10-14-2020" (Doc. 47) Dated October 26,  
23       2020, Page 14, Line 1 Through Line 13, One Will See The Plaintiff Was  
24       Already COMPLYING With The Court's ORDER To RE-SERVE The  
25       Court Summons and Other Required Documents To The Defendants!  
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1           The Court Docket For October 21, 2020 (Doc. 46) Also Clearly  
2 Shows The Plaintiff Had Already Obtained From The Clerk Of Court The  
3 NEW-SET Of Court Summons and They Had Already Been Sent By  
4 Certified, Registered Mail To The Defendants On November 3, 2020, Per  
5 The Court's ORDER!  
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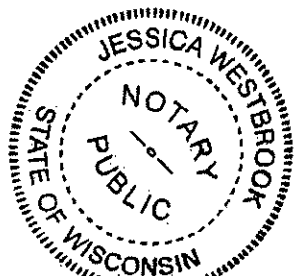
8           It Appears This Adverse Decision By Judge **David C. Bury** May Be  
9 Due To The Plaintiff Obtaining Legal Counsel By A Number Of Attorneys  
10 and Those In The U.S. Department Of Justice Who Had Determined That  
11 16 A.R.S. Rules of Civil Procedure, Rule 4.1(k)(3) Which Is The Listing  
12 Of "SERVICE-BY-PUBLICATION" As An Alternative Means Of Serving  
13 The Summons Upon A Defendant Is Just As It Claimed To Be, "AN-  
14 ALTERNATIVE-MEANS-OF-SERVICE" In Which Nothing More Was  
15 To Be Implied!  
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19           It Was Found This Specific Method Of Delivering The Summons  
20 Upon The Defendants DID-NOT Require The Court's Approval As The  
21 Laws Show and Therefore Service Of The Summons Was Legally  
22 Completed! It Was Also Determined The Plaintiff's "SERVICE-BY-  
23 MAIL" Of The Summons Also Complied With 16 A.R.S. Rules of Civil  
24 Procedure and Therefore The Summons Was Successfully Served Per The  
25 Law's Requirements.  
26  
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1 It Appears That This Adverse Decision By Judge **David C. Bury** May  
2 Have Been Driven By His Unwillingness To File The Required By Law  
3 DEFAULT Charges and/or Rulings (Doc. 45) Against The Defendants For  
4 Their REFUSAL To Respond AND Their Intentionally Evading A Court  
5 Ordered Summons As Shown By The Evidence Found Within The Court  
6 Record For The Defendants Named Patricia A. Brutscher (Doc. 36, 37),  
7 Mary W. Richardson (Doc. 34, 35), Sean T. Kurysh (Doc. 29, 30) and  
8 Others!

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12 The Plaintiff Therefore Respectfully Requests That An Impartial  
13 Associate Judge Please Review This Court ORDER By Judge **David C.**  
14 **Bury**, and For Them To Determine The Reasons For This Judge's Adverse  
15 Behavior Towards The Case and The Plaintiff.  
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20 Dated This Month Of: 11, Day Of: 30, Year Of: 2020  
21



*Jessica Westbrook*  
Wood County, WI  
November 30th 2020  
tx: 6/24/2022

Respectfully Submitted

*Paul E. Jozwiak*  
Paul E. Jozwiak

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6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Paul E. Jozwiak,  
9 [Claimant/Plaintiff],  
10

11 VS.

12 Raytheon Missile Systems;  
13 MetLife Disability;  
14 Beth A. Green;  
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16 Dr. Karen A. Haas;  
17 Dr. John L. Schaller;  
18 Dianne D. Avellar;  
19 Guy C. Slominski;  
20 Joanne Bockmiller;  
21 Mary W. Richardson;  
22 Pat M. Brutscher;  
23 Sean T. Kurysh;  
24 Veronica Thomas,

25 and

26 Others As They Become Available.

27 [Defendants].  
28

**REQUEST FOR JUDGE  
DAVID C. BURY TO  
EXPLAIN HIS RULING**

For

No. **CV-20-39-TUC-DCB**

**Plaintiff's  
APPENDIX-G**

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## REQUEST FOR JUDGE DAVID C. BURY TO EXPLAIN HIS RULING

This Is The Plaintiff's REQUEST For ANSWERS To The Court's ORDER, Dated **November 5, 2020**, (Doc. 48) To DISMISS His Case Under Their False Claims That, "The Plaintiff has chosen to not comply with this Order and instead responded that the Court failed to properly consider the rules of service and drew erroneous conclusions"! These Questions Which Are Due To Some Confusion By Both The Court and The Plaintiff Regarding The Problems With Conflicting Arizona Laws That Needed To Be Addressed and Corrected Are As Follows:

### **ITEM-1:**

Why Is It That The Plaintiff Was FIRST-NOTIFIED Of The DISMISSAL Of His Case, NOT By The Court, But By A Number Of Friends E-Mails Which Were Due To The Court's Opinions That **Judge David C. Bury** Posted To An Internet Website Called www.leagle.com/decision, On **November 5, 2020**?

### **ITEM-2:**

Why Is It That The Plaintiff Discovered A Multitude Of False Claims By **Judge David C. Bury** On This Same Internet Site In Which He States, "The Plaintiff has chosen to not comply with this Order and instead responded that the Court failed to properly consider the rules of service and drew erroneous conclusions" (Doc. 48) Dated **November 5, 2020** When It Is Clearly Documented In The, "PLAINTIFF'S RESPONSE TO THE COURT'S ORDER DATED 10-14-2020" (Doc. 47) Dated **October**

1 26, 2020, Page 14, Line 1 Through Line 13 That The Plaintiff Was  
2 Already COMPLYING With The Court's ORDER To RE-SERVE The  
3 Court Summons and Other Required Documents To The Defendants?  
4

5 **ITEM-3:**

6 Why Is It That The Plaintiff Also Discovered That **Judge David C.**  
7 **Bury** Had Made These False Claims Against The Plaintiff, On This Same  
8 Internet Site, When The Court Docket For Wednesday, **October 21, 2020**  
9 (Doc. 46) Clearly Shows The Plaintiff Had Already Obtained From The  
10 Clerk Of Court The New Set Of Court Summons and They Had Already  
11 Been Sent By Certified, Registered Mail To The Defendants On  
12 **November 3, 2020**, Per The Court's ORDER!  
13

14 **ITEM-4:**

15 Why Is It That A Detailed Review For The Plaintiff, By A Number Of  
16 Attorneys and Those In The U.S. Department Of Justice Had Determined  
17 That 16 A.R.S. Rules of Civil Procedure, Rule 4.1(k)(3), The Listing Of  
18 "SERVICE-BY-PUBLICATION" As An Alternative Means Of Serving  
19 The Summons Upon A Defendant Is Just As It Claims To Be, "AN-  
20 ALTERNATIVE-MEANS-OF-SERVICE" and Nothing More Is To Be  
21 Implied! And That:

- 22 1) This Specific Method Of Delivering The Summons Upon The  
23 Defendants DID-NOT Require The Court's Approval As The Laws  
24 Show and Therefore Service Of The Summons Was Legally  
25 Completed!  
26

27 **ITEM-5:**  
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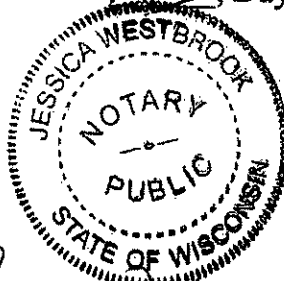


1 Why Is It That The Plaintiff Was FIRST-NOTIFIED Of The  
2 REFUSAL By The Court To File The Required By Law DEFAULT  
3 Against The Defendants, But By A Number Of Friends E-Mails Which  
4 Were Due To The Court Opinion That **Judge David C. Bury** Posted To  
5 This Same Internet Website? **Judge Bury** Stated He Was Immediately  
6 DISMISSING The Plaintiff's Case, "For lack of service pursuant to Fed.  
7 R. Civ. P. 4 and for failure to comply with Court directives" (Doc. 48)  
8 Which Was Found To Be Known and Proven False Claims Against The  
9 Plaintiff If One Reviews (Doc. 46 and 47)!

10  
11 **NOTE:**

12 See The Supplied Evidence In The Form Of Attached Copies Of The  
13 Court Docket, and The Supplied False Internet Posting Discovered By The  
14 Plaintiff and His Friends Which **Judge David C. Bury** Is Responsible For.  
15

16  
17  
18 Dated This Month Of: November, Day Of: 12, Year Of: 2020



24 *Jessie Westbrook*  
25 11/12/2020  
26 Wood County, WI  
27 Ex: 6/24/2022  
28

Respectfully Submitted

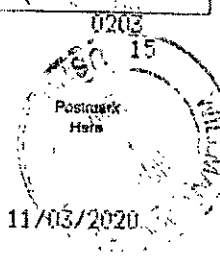
*Paul Jozwiak*  
Paul E. Jozwiak  
404 South Cedar Ave.,  
Marshfield, WI 54449  
Phone: (520)-818-4976  
E-Mail: Orion5x5x9@yahoo.com

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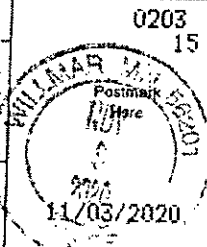
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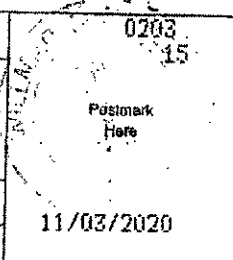
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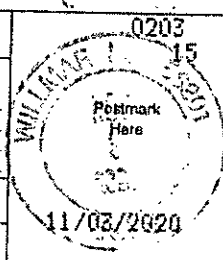
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3. JOZWIAK v. RAYTHEON MISSILE SYSTEMS

## JOZWIAK v. RAYTHEON MISSILE SYSTEMS

Email | Print | Comments (0)  
No. CV-20-00039-TUC-DCB.

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• [View Case](#)

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*Paul E Jozwiak, Plaintiff, v. Raytheon Missile Systems, et al., Defendants.*

United States District Court, D. Arizona.

November 5, 2020.

---

## ORDER

**DAVID C. BURY**, *District Judge.*

On October 14, 2020, this Court for the first time approved alternative service by mail, granted the Plaintiff one-last 30-day extension of time to complete service, and ordered the Plaintiff to serve the Defendants alternatively at their last known home addresses. The Court ordered the Plaintiff to include in the service packet a copy of the Order approving the alternative method of service and directing any Defendant so served to respond. (Order (Doc. 44)). The Order expressly stated: "NO FURTHER EXTENSIONS SHALL BE GRANTED. Failure to comply with this Order for serving the Defendants within the time allowed shall result in dismissal of this action, without further notice to the Plaintiff." *Id.* at 4.

The Plaintiff has chosen to not comply with this Order and instead responded that the Court failed to properly consider the rules of service and drew erroneous conclusions. (Response (Doc. 47.)) The Court considered the exact rules which are the subject of the Plaintiff's Response when it issued its October 14, 2020, Order. The Court will not reconsider its directives issued on October 14, 2020. Pursuant to those directives and notice given therein, the Court dismisses this case.

Accordingly,

IT IS ORDERED that the Motion for Entry of Default (Doc. 45) is DENIED.

**IT IS FURTHER ORDERED** that this matter is dismissed for lack of service, pursuant to Fed. R. Civ. P..4, and for failure to comply with Court directives.

IT IS FURTHER ORDERED that the Clerk of the Court shall enter Judgment, accordingly, and close this case.

---



## Comment

Your Name

Your Email

Comments

1000 Characters Remaining

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**Paul Jozwiak** on Jan May 08 2020 commented:

I am the plaintiff and I have evidence that this posting from the court is fraudulent due to the courts own illegal activities. Hope you like it when the real documented evidence comes out and exposes you for your total screw-ups.

[Reply | Flag as Offensive](#)

## Jozwiak v. Raytheon Missile Systems et al Court Docket Sheet

Court Cases › Federal Cases › Civil Cases › District of Arizona › 2020 › 2020-cv-00000 through 2020-cv-00499  
 › Jozwiak v. Raytheon Missile Systems et al

***Jozwiak v. Raytheon Missile Systems et al******Court Docket Sheet***

District of Arizona

4:2020-cv-00039 (azd)

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#	Date	Description
50	11/09/2020	Notice (Other)
49	11/06/2020	Clerks Judgment
48	11/06/2020	ORDERED that the Motion for Entry of Default (Doc. 45) is DENIED. IT IS FURTHER ORDERED that this matter is dismissed for lack of service, pursuant to Fed. R. Civ. P.4, and for failure to comply with Court directives. IT IS FURTHER ORDERED that the Clerk of the Court shall enter Judgment, accordingly, and close this case. Signed by Senior Judge David C Bury on 11/5/2020.
47	10/29/2020	Plaintiff's RESPONSE to the Court's [44] Order by Plaintiff Paul E Jozwiak.
46	10/21/2020	Summons Issued (Text entry; no document attached.)



45 10/20/2020

## Default Judgment

44 10/14/2020

ORDER that the Plaintiff is granted one last extension of time to serve the Defendants. It is further Ordered that the Court approves alternative service on Defendants by certified mail or other source of mail which requires a signature proof of service. It is further Ordered that within 30 days of the filing date of this Order, Plaintiff shall fully comply with the directive of this Order. NO FURTHER EXTENSIONS SHALL BE GRANTED. Failure to comply with this Order for serving the Defendants within the time allowed shall result in dismissal of this action, without further notice to the Plaintiff (see attached Order for complete details). Signed by Senior Judge David C Bury on 10/14/2020.

43 10/13/2020

## Service Executed

42 09/25/2020

RESPONSE to the Court's for Status of Service of Summons to Defendants re: [19] Order, Set Deadlines by Plaintiff Paul E Jozwiak.

41 09/25/2020

NOTICE re: Official Testimony of Contents within the Court Summons Mail Packages Sent to Each Defendant by Paul E Jozwiak.

40 09/25/2020

NOTICE re: Arizona Status for Proof of Service with Mail Tracking and Newspaper Affidavit Reports for Court Ordered Summons by Paul E Jozwiak.

39 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication upon Veronica Thomas, Raytheon Human Resources Manager (AZ). Last publication date 9/3/2020.

38 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication upon Raytheon Missile Systems, Plaintiff's Last Employer (AZ). Last publication date 9/3/2020.

37 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication upon Patricia A Brutscher, Nurse Practitioner, Raytheon (AZ). Last publication date 9/3/2020.

36 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication upon Patricia A Brutscher, Nurse Practitioner, Raytheon (AZ). Last publication date 9/3/2020.

35 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication upon Mary W Richardson, Nurse Practitioner Raytheon (AZ). Last publication date 9/3/2020.

34 09/25/2020

SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication, Mary W Richardson, Nurse Practitioner, Raytheon (AZ). Last publication date 9/3/2020.



## Jozwiak v. Raytheon Missile Systems et al Court Docket Sheet

- 33 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Guy C Siominski, Engineering Manager, Raytheon (AZ). Last publication date 9/3/2020.
- 32 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Guy C Siominski, Engineering Manager, Raytheon (AZ). Last publication date 9/3/2020.
- 31 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on MetLife Disability, Insurance Carrier for Raytheon (NY). Last publication date 9/2/2020.
- 30 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication Sean T Kurys, CA. Last publication date 9/3/2020.
- 29 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication Sean T Kurys, Raytheon Human Resources Manager, AZ. Last publication date 9/3/2020.
- 28 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication John L Schaller, Independent Medical Examiner, AZ. Last publication date 9/3/2020.
- 27 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Dr John L Schaller, Independent Medical Examiner, MetLife. Last publication date 9/3/2020.
- 26 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Karen A Haas, Doctor, Raytheon Medical Center. Last publication date 9/3/2020.
- 25 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Dr Karen A Haas, Doctor, Raytheon Medical Center. Last publication date 9/3/2020.
- 24 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication Dr. Arthur J Bacon, Primary Care Doctor, Retired. Last publication date 9/3/2020.
- 23 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Arthur J Bacon. Last publication date 9/3/2020.
- 22 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Beth A Green. Last publication date 9/1/2020.
- 21 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication on Joanne Bockmiller. Last publication date 9/3/2020.
- 20 09/25/2020 SERVICE EXECUTED filed by Paul E Jozwiak: Service by Publication. on Dianne D. Avellar. Last publication date 9/3/2020.

19 09/16/2020

Order

18 07/10/2020

ORDER denying 16 Motion: Court Petition for the Claimant/Plaintiff to Serve the Summons and denying 17 Motion: Court Petition for the Claimant/Plaintiff to Serve the Summons. The Court shall extend the time for service by another 30 days or until September 13, 2020. NO FURTHER EXTENSIONS SHALL BE GRANTED. It is further ORDERED that this case shall be subject to dismissal for failure to serve the Summons and First Amended Complaint, thereafter. Signed by Senior Judge David C Bury on 7/10/20.

17 07/08/2020

Miscellaneous Relief

16 07/08/2020

Miscellaneous Relief

05/28/2020

Summons Issued (Text entry; no document attached.)

15 05/13/2020

Filing Fee Received

14 05/13/2020

ORDER re: 13 Amended Complaint filed by Paul E Jozwiak. IT IS ORDERED that the Plaintiff shall serve the First Amended Complaint within 90 days of its filing date, pursuant to Fed. R. Civ. P. 4. Signed by Senior Judge David C Bury on 5/12/2020.

13 05/12/2020

Amended Complaint

12 05/11/2020

Response

11 04/20/2020

Order on Motion for Extension of Time to Amend

10 04/14/2020

Extension of Time to Amend

9 03/19/2020

ORDERED that Plaintiff's Application to Proceed Without Prepaying Fees or Costs (Doc. 8) is DENIED. It is further ordered that the Motion for Marshal to Serve the Complaint (Doc. 7) is DENIED. It is further ordered that the Motion for Leave to Exceed the Page Limit (Doc. 3) is DENIED AS MOOT. It is further ordered that the Motion to Admit Relevant Evidence (Doc. 2) is DENIED AS MOOT. It is further ordered that, sua sponte, the Complaint is DISMISSED WITH LEAVE TO AMEND to comply with Rule 8. Plaintiff shall file a First Amended Complaint by April 14, 2020. It is further ordered that THE FIRST AMENDED COMPLAINT MUST BE CLEARLY DESIGNATED AS "FIRST AMENDED COMPLAINT" ON THE FACE OF THE DOCUMENT. It is further ordered that the Clerk of the Court is directed to ENTER DISMISSAL of this action WITHOUT PREJUDICE and close the case, without further notice to Plaintiff, if he fails to file the First Amended Complaint and/or pay the required filing fee by April 14, 2020. It is further ordered that the Plaintiff shall not have any ex parte communications with this Court, including telephone calls and letters. Signed by Senior Judge David C Bury on 3/18/2020. (See Order for complete details)

8 02/20/2020

APPLICATION for Leave to Proceed In Forma Pauperis by Paul E Jozwiak.

## Jozwiak v. Raytheon Missile Systems et al Court Docket Sheet

7	02/20/2020	MOTION for the US Marshal to Serve Legal Summons and All Court Writs or Processes in a ERISA Civil Action Case by Paul E Jozwiak.
6	01/24/2020	NOTICE TO SELF-REPRESENTED LITIGANT re informational documents attached: (1) Notice to Self-Represented Litigant, (2) Federal Court Self-Service Clinic Flyer, (3) Fed. R. Civ. P. 5.2, and (4) Notice and Request re Electronic Noticing.
5	01/24/2020	This case has been assigned to the Honorable David C Bury. All future pleadings or documents should bear the correct case number: CV-20-39-TUC-DCB. Notice of Availability of Magistrate Judge to Exercise Jurisdiction form attached.
4	01/24/2020	SUMMONS Submitted by Paul E Jozwiak. (22 pages)
3	01/24/2020	MOTION for Leave to File Excess Pages for For ERISA Civil Action Case by Paul E Jozwiak. (2 pages)
2	01/24/2020	MOTION to Admit Relevant Evidence Pursuant to Federal Rule 401 and 402 by Paul E Jozwiak. (6 pages)
1	01/24/2020	COMPLAINT filed by Paul E Jozwiak. (1,407 Pages)

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## Other 2020 Cases in the District of Arizona:

- Johnson v. Shin et al (azd-4:2020-cv-00308)
- Johnston et al v. Selene Finance LP et al (azd-2:2020-cv-00051)
- Jones v. Commissioner of Social Security Administration (azd-4:2020-cv-00170)



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Form 27. Motion For Transferring Case To Federal DC Court Of Appeals

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form27instructions.pdf>

9<sup>th</sup> Cir. Case Number(s) 20-17361

Case Name Paul E. Jozwiak, Appellant vs. AZ District Judge David C. Bury

Lower Court Or Agency Case Number 4:20-cv-00039-DCB

What Is Your Name? Paul E. Jozwiak

1. What Do You Want The Court To Do?

The Plaintiff Requests The Court Transfer This Case To The Federal DC Court Of Appeals Due To The Claimed Severity Of The COVID Virus In California, The Federal Questions Involving Application Of Written-Law and The Urgent Need To Create New Laws To Deal With The Impact Upon The Court's Due To The Virus!

2. Why Should The Court Do This? (Be Specific!) Include All Relevant Facts and Law That Would Persuade The Court To Grant Your Request.  
(Attach additional pages as necessary. Your motion may not be longer than 20 pages.)

1) The Case Involves The Discovery Of Serious Deficiencies With State and Federal Laws Regarding The Service Of A Court Summons and Other Legal Documents During Times Of A Court and/or Government Shutdown Due To A Pandemic and/or Politics! It Was Found Those Being Served Are Using The Current Situation As An Excuse To Legally Evade Service Under False Claims Of Violation Of Their Rights and Threat To Their Health and Safety! These Laws Require An Immediate Review and Revision To Deal With These Unforeseen Problems and To Allow Process Servers Access To Places Of Business To Serve Documents Without Interference!

Your Mailing Address: 404 South Cedar Ave.,

City: Marshfield State: WI Zip Code: 54449

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**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT  
(Continuation)**

**Form 27. Motion For** **Transferring Case To Federal DC Court Of Appeals**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form27instructions.pdf>

**9<sup>th</sup> Cir. Case Number(s)** **20-17361**

**Case Name** **Paul E. Jozwiak, Appellant vs. AZ District Judge David C. Bury**

**Lower Court Or Agency Case Number** **4:20-cv-00039-DCB**

**What Is Your Name?** **Paul E. Jozwiak**

**Continuation Of Why Should The Court Do This?**

Relevant Facts and Laws To Persuade The Court To Grant This Request.

(Attach additional pages as necessary. Your motion may not be longer than 20 pages.)

- 2) The 9th District Court Was Discovered To Be Administering The Laws For The Service Of A Summons and Other Court Documents, Contrary To What The Actual Written-Laws Prescribed!
- a) The Laws For Service Of A Summons By-Mail, Under 16 A.R.S. Rules of Civil Procedure, Rule 4, Rule 4.1 and Rule 4.2, Clearly States The Plaintiff Or Their Attorney Must: "Serve upon the defendant by "First-Class-Mail" the waiver of service, a copy of the complaint, the summons and other required documents" and It DID-NOT Require Authorization By The Court As The Written-Laws Show!
- b) The Laws For Service Of A Summons By-Newspaper-Publication, Under 16 A.R.S. Rules of Civil Procedure, Rule 4.1(k)(3) and/or Rule 4.1(l) Clearly States That While Rule 4.1(k) Is Listed As An Alternative-Means Of Service, Item (3) and Also Rule 4.1(l), Which Is NOT Listed As An Alternative-Means Of Service

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DID-NOT Require Authorization By The Court As The Written-Laws Show!

- i. It Was Also Found, The Laws For Service Of A Summons **By-Newspaper-Publication**, Under The District Court's Own Document Called;  
"Representing Yourself In Federal Court In The District Of Arizona"; Page 26, AZD Rev. October 2019, Clearly States This Method Is NOT Listed As An Alternative-Means Of Service and DID-NOT Require Authorization By The Court As The Written-Laws Show!

This Requires A Full Review By The Federal D.C. Court Of Appeals Due To Its Impact Upon State and Federal Laws and The Administration Of Court Cases! This Problem With The District Court's Adverse Administration Of The Laws, Due To Their Personal-Definition Of "An Alternative Means", Needs To Be Properly and Legally Defined For All Court Cases Both State and Federal! The Federal Question To Answer Is, Under What Conditions DOES Or DOES-NOT "An Alternative Means" Require Authorization By A Court and Under What Conditions Is A Judge Allowed To Violate The Written-Law and Legal-Rights Of A Person By Imposing Unwarranted Restrictions!

- 
- 3) The 9th District Court Was Discovered Posting Multiple False Claims About The Plaintiff's Case To Internet Sites Called, "www.leagle.com/decision", "The Independent Court Reporter" and "Others" While The Case Was Still Under Review!

- a) The District Court Publicly Stated In One Of Their Many Postings Since October 14, 2020 That, "Consequently the defendants were NOT required to respond to the service of their summons." For Various False and Illegal Reasons!

- i. This Public-Endorsement Of The Violation Of The Laws Was Found Under Fed. R. Civ. P. Rule 59, Matters Before A Magistrate Judge That, "If the court determines that the magistrate judge's order, or a portion of the order,

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is "Contrary To Law Or Is Clearly Erroneous", the court must set aside the order, or the affected part of the order."!

- ii. This Action Of Posting Opinions and/or Rulings To Various Internet Sites By The District Court During The Plaintiff's Case, (With That Of Posting Proven Fraudulent Claims), Resulted In Multiple Violations Of "The Arizona Code Of Judicial Conduct" and "The Arizona Supreme Court Judicial Ethics Advisory Committee", ADVISORY OPINION 14-01 Dated (May 5, 2014)!
- iii. This Problem With The District Court's Adverse Administration Of Their Duties, Violated The Plaintiff's Right To "Equal Protection Under The Law" and Due Process Under "The XIV Amendment Of The U.S. Constitution"!

This Requires A Full Review By The Federal D.C. Court Of Appeals Due To Its Impact Upon State and Federal Laws and The Administration Of Court Cases! This Will Require The Development Of New Federal Laws To Eliminate This Activity By A Court Or Other Posting Case Material and/or Fraudulent Claims and Rulings To Various Internet Sites and Publications While A Case Is Under Review! These New Laws Will Need To Severely Penalize Those Who Violate The Laws and/or Rules Of Civil Procedure As It Has Been Found There Are Currently NO Adequate-Laws To Deal With This Form Of A Court's Or Others Willful Misconduct!

- 
- 4) The 9th District Court Was Found To Be In Violation Of The Law By Their Refusal To Discipline A Law Firm, (Who Claimed They Represented The Defendants), When It Was Proven They Attempted To Engaging In Known Illegal Ex Parte Communications Against The Plaintiff For The Purpose Of Coercing, and/or Interrogating Him!

- a) On Friday July 24, 2020, at 4:52 PM Wisconsin Time, The Plaintiff Received A Call From (520)-575-7441 In Which A Person Claimed They Were The Attorney Representing Raytheon and The Defendants In The Plaintiff's Case! This Person

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Refused To Provide Their Name Or That Of The Law Firm They Were Representing!

b) This Incoming Phone Number Was Discovered To Belong To A James K. Mackie, Bar # 013314 At A Law Firm Called Ogletree, Deacons, Nash, Smoak, & Stewart, P.C. In Tucson Arizona!

c) The Plaintiff Obtained A Copy Of His AT&T Phone Call Transaction Report, For His Phone Number (520)-818-4976, Showing The Incoming Call and Filed The Legally-Required Incident Report With This Evidence To The Court!

This Requires A Full Review By The Federal D.C. Court Of Appeals Due To Its Impact Upon State and Federal Laws and The Administration Of Court Cases! This Problem With The District Court's Adverse Administration Of Their Duties, Was In Violation Of State and Federal Laws For Obstruction Of Justice Under 18 U.S. Code § 1503, Racketeering Under 18 U.S. Code § 1961 and Other Laws While Violating The Rules Of Civil Procedure! This Problem Requires A Full Review Due To The Need To Develop New Federal Laws To Make It More Efficient To Identify and Severely Penalize Those Court Officials and/or Others Who Obstruct Justice While Violating The Laws and/or Rules Of Civil Procedure!

---

5) The 9th District Court Was Found To Be In Violation Of The Written-Law By Their Refusal To File The Required-By-Law DEFAULT Ruling Against The Defendants and/or Their Attorneys Who ALL-REFUSED-TO-RESPOND To Their Summons As Required By The Fed. R. Civ. P. Rule 12!

a) The Plaintiff Submitted His Final Status Of The Defendant's Response To The Court Summons On October 14, 2020, (Doc. 45), and PETITIONED The Court To Rule The Defendants and/or Their Attorneys In DEFAULT!

b) The Court Instead Filed A False Ruling On October 14, 2020, Claiming The Plaintiff Failed To Successfully Serve The Summons To The Defendants, and

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The Plaintiff Had Defied The Court's Orders Against Serving The Summons By An Alternative-Means!

- c) The Court Then Ordered The Plaintiff To Re-Serve The Court Summons and Other Court Documents Upon The Defendants By Use Of Certified Registered-Mail Requiring A Signature-Service Which Was The Third-Time This Service-By-Mail Was Now Being Performed!
- d) Due To The COVID-19 and The CDC Mandates In Effect, All Mail and Package Carriers Such As FEDEX, UPS, USPS and Others Had Suspended Signature-Services In February 2020 For Their Deliveries Making It Almost Impossible To Obtain Signatures! See These Rules and Regulations For Signature-Services, Provided By The Plaintiff To Judge Bury During The Case, From The Official Website: "[https://faq.usps.com/s/article/USPS-Coronavirus-Updates-for-Residential-Customers#mailing\\_shipping](https://faq.usps.com/s/article/USPS-Coronavirus-Updates-for-Residential-Customers#mailing_shipping)"!
- e) The Court Then Claimed It Was Now First Authorizing This Service-By-Mail As An Alternative-Means Of Service, Which Was Contrary To What The Actual Written-Laws Prescribed Since Service-By-Mail Never Required The Court's Authorization and Was NOT An Alternative-Means Of Service As The Written-Laws Show!
- f) The Court Docket For October 21, 2020, (Doc. 46) Then Shows The Plaintiff Had Obtained From The Clerk Of Court The NEW-SET Of Court Summons, and They Had Been Sent By Certified, Registered-Mail To The Defendants On November 3, 2020 In Compliance With This New Court Order!
- g) When The Court Discovered The Summons Were Being Served, and The Court Was Being Asked Questions Regarding Their Interpretation Of The Laws For Service Of The Summons, The Court Posted A DISMISSAL Of The Plaintiff's Case To Multiple Internet Sites Falsely Claiming It Was, "For lack of service pursuant to Fed. R. Civ. P.4 and for failure to comply with Court directives."!

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The Court Also Falsely Claimed On These Internet Sites "The Plaintiff has Chosen To NOT Comply with this Order and instead responded that the Court failed to properly consider the rules of service and drew erroneous conclusions."!

- i. This Action Of Posting Opinions and/or Rulings To Various Internet Sites By The District Court During The Plaintiff's Case, (With That Of Posting Proven Fraudulent Claims), Resulted In Multiple Violations Of "The Arizona Code Of Judicial Conduct" and "The Arizona Supreme Court Judicial Ethics Advisory Committee", ADVISORY OPINION 14-01 Dated (May 5, 2014)!
- ii. This Problem With The District Court's Adverse Administration Of Their Duties, Violated The Plaintiff's Right To "Equal Protection Under The Law" and Due Process Under "The XIV Amendment Of The U.S. Constitution"!

This Requires A Full Review By The Federal D.C. Court Of Appeals Due To Its Impact Upon State and Federal Laws and The Administration Of Court Cases! This Will Require The Development Of New Federal Laws To Severely Penalize Any Court That Administers The Laws Contrary To Written-Law, Or Post Fraudulent Claims and/or Rulings To Court Records, Various Internet Sites and Publications While A Case Is Under Review and After! These New Laws Will Need To Deal With A Court's Misconduct Ranging From Prejudice, Tantrums, The Refusal To Allow The Right To Self-Representation, To That Of Racketeering! Currently The Only Recourse For An Injured Party Is A Judicial Misconduct Review Under 5 U.S. Code § 706 Which Has Been Found To Be Difficult To Initiate and Severely Deficient In Penalties!

- 
- 6) Due To The Documented Severity Of The COVID Pandemic Within California and The Surrounding Areas, and These Courts Claiming It As Adversely Impacting Their Ability To Carry Out Their Assigned Tasks, The Plaintiff Requests This Transfer Of
- 

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His Appeals Case To The Federal D.C. Court Of Appeals Be Done To Ensure A Complete and Proper Review Of His Case!

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- 7) Due To The Multiple Documented Instances Of Judicial Misconduct By The 9<sup>th</sup> District Court Judge, and The Conflict-Of-Interest Regarding Raytheon As A Major Employer In The State Of Arizona, California and Others, The Plaintiff Requests This Transfer Of His Appeals Case To The Federal D.C. Court Of Appeals Be Done To Prevent A Further Conflict Of Interest That May Arise Due To The Judicial Associations, Personal and/or State Financial Interests With Political Motivations!
- 

Respectfully Submitted,

This Date Of Filing:

02-12-2021

By: *The Plaintiff-Appellant*

*Paul Jozwiak*

Paul E. Jozwiak, Pro Se

404 South Cedar Ave.,

Marshfield, WI 54449

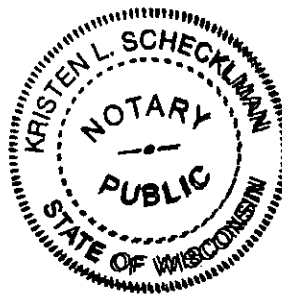
Phone: (520)-818-4976

THIS INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME ON 2-12-2021

*Paul Jozwiak*  
*Kristen L. Scheckman*  
NOTARY PUBLIC

Wood COUNTY, WI

Commission Expires 12/11/2024



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1 Paul E. Jozwiak  
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3 Marshfield, WI 54449  
4 Phone: (520)-818-4976  
5 E-Mail: orion5x5x9@yahoo.com

6  
7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Paul E. Jozwiak,  
10 [Claimant/Plaintiff],

11 VS.

12  
13 Raytheon Missile Systems;  
14 MetLife Disability;  
15 Beth A. Green;  
16 Dr. Arthur J. Bacon;  
17 Dr. Karen A. Haas;  
18 Dr. John L. Schaller;  
19 Dianne D. Avellar;  
20 Guy C. Slominski;  
21 Joanne Bockmiller;  
22 Mary W. Richardson;  
23 Pat M. Brutscher;  
24 Sean T. Kurysh;  
25 Veronica Thomas,

26 and

27 Others As They Become Available  
28 Due To The Discovery Process.

[Defendants].

**PLAINTIFF'S RESPONSE  
TO THE COURT'S ORDER  
DATED 10-14-2020**

For

No. **CV-20-39-TUC-DCB**

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**PLAINTIFF'S RESPONSE  
TO THE COURT'S ORDER  
DATED 10-14-2020**

This Is The Plaintiff's Response To The Court's Order Dated October 14, 2020 In Which There Is Some Confusion By Both The Court and The Plaintiff Regarding A Problem With Conflicting Arizona Laws Which Needs To Be Addressed and Corrected.

---

**ITEM-1:**

In Addressing The Courts Comments Found On Page 2 Of Their Order, Line 7 Through 23, It Has Been Discovered Under Arizona law 16 A.R.S. Rules of Civil Procedure, Rule 4.1(d) That For Serving A Defendant:

**(d) Serving An Individual.** Unless Rule 4.1(c), (e), (f), OR (g) applies, an individual may be served by:

- (1)** Delivering a copy of the summons and the pleading being served to that individual personally;
- (2)** Leaving a copy of each at that individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; OR
- (3)** Delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

If The Court Will Please Notice Under **Rule 4.1(d)(3)**, The Statement: "An agent authorized by appointment or by law to receive service of process." Generally Applies To An Attorney, Parent and/or Guardian Of A Person OR Someone At A Company Who Is Designated To Receive

1 Documents For An Employee At Their Place Of Work! Also Note The  
2 Term "Delivering" Is Ambiguous Since It Does NOT Define Whether  
3 Delivery Is By Hand, Mail Or Other Means!  
4

5 This Specific Rule Conflicts With **Rule 4.1(k)(2)** Below In Which An  
6 Alternative Means Of Service Is Listed As: "The serving party must mail  
7 the summons, the pleading being served, and any court order authorizing  
8 an alternative means of service to the last-known business or residential  
9 address of the person being served."  
10

11 **(k) Alternative Means Of Service.**

12 **(1) Generally.** If a party shows that the means of service provided in  
13 **Rule 4.1(c) through Rule 4.1(j)** are impracticable, the court may—  
14 on motion and without notice to the person to be served--order that  
15 service may be accomplished in another manner.

16 **(2) Notice and Mailing.** If the court allows an alternative means of  
17 service, the serving party must make a reasonable effort to provide  
18 the person being served with actual notice of the action's  
19 commencement. In any event, the serving party must mail the  
20 summons, the pleading being served, and any court order authorizing  
21 an alternative means of service to the last-known business or  
22 residential address of the person being served.

23 **(3) Service by Publication.** A party may serve by publication ONLY-IF  
24 the requirements of **Rule 4.1(l), 4.1(m), 4.2(f), OR 4.2(g)** are met  
25 and the procedures provided in those rules are followed.

26 **(l) Service By Publication.**

27 **(1) Generally.** A party may serve a person by publication ONLY-IF:

28 **(A)** The last-known address of the person to be served is within

1 Arizona BUT:

2 (i) The serving party, despite reasonably diligent efforts, has been  
3 unable to ascertain the person's current address; OR

4 (ii) The person to be served has intentionally avoided service of  
5 process; AND

6 (B) Service by publication is the best means practicable in the  
7 circumstances for providing the person with notice of the action's  
8 commencement.

9  
10 Now If The Court Will Please Turn Their Attention To 16 A.R.S.  
11 Rules of Civil Procedure, Rule 4.2(b) AND Rule 4.2(c) They Will  
12 Immediately Notice That For Serving A Defendant:

13 (b) **Direct Service.**

14 (1) **Generally.** A party may serve process outside Arizona, but within the  
15 United States, in the same manner as provided in **Rules 4.1(d)**  
16 through (j).

17 (2) **Who May Serve.** Service must be made by a person who is authorized  
18 to serve process under the law of the state where service is made.

19 (3) **Effective Date of Service.** Service is complete when made, and the  
20 Time-period under **Rule 4.2(m)** starts to run on that date.

21 (c) **Service by Mail.**

22 (1) **Generally.** If a serving party knows the address of the person to be  
23 served and the address is outside Arizona but within the United  
24 States, the party may serve the person by mailing the summons and  
25 a copy of the pleading being served to the person at that address by  
26 any form of postage-prepaid mail that requires a signed and  
27 returned receipt.  
28



1 (2) **Affidavit of Service.** When the post office returns the signed  
2 receipt, the serving party must file an affidavit stating:

3 (A) The person being served is known to be located outside Arizona  
4 but within the United States;

5 (B) The serving party mailed the summons and a copy of the pleading  
6 or other request for relief to the person by **any form of mail**  
7 described in **Rule 4.2(c)(1)**;

8 (C) The serving party received a signed return receipt, which is  
9 attached to the affidavit and which indicates that the person  
10 received the described documents; AND

11 (D) The date of receipt by the person being served.

12  
13 **(f) Service by Publication.**

14 (1) **Generally.** A party may serve a person by publication ONLY-IF:

15 (A) The last-known address of the person to be served is outside  
16 Arizona BUT:

17 (i) The serving party, despite reasonably diligent efforts, has not  
18 been able to ascertain the person's current address; OR

19 (ii) The person has intentionally avoided service of process;  
20 AND

21 (B) Service by publication is the best means practicable in the  
22 circumstances for providing notice to the person of the action's  
23 commencement.

24  
25 The Question For The Court To Now Consider, Does **Rule 4.1(d)(3)**  
26 Exclude Mail Delivery To The Defendant's Places Of Employment OR  
27 Not? This Is Ambiguous Since IF Delivery Of A Summons By Mail To  
28 Places Of Employment Are Excluded Under These Rules, Then What Are

1 The Exclusions and Their Conditions For Delivery Of A Summons To  
2 Other Public Places Such As Churches, Schools, Etc..?

3  
4 Now If The Court Will Please Turn Their Attention To **Rule 4.2(c)(1)**  
5 In Which The Legal Service Of A Summons By Mail To Those Outside  
6 The State Of Arizona Shows NO-EXCLUSIONS! This Is An Obvious  
7 Conflict Of Law Where These Laws Need To Be Re-Written To Clarify  
8 Them In Order To Prevent Future Misinterpretation Resulting In The  
9 Overthrow and/or Sabotage Leading To The Wrongful Termination Of A  
10 Plaintiff's Legitimate Case By Attorneys, Defendants and/or Others.

11  
12 The Other Issues Which Need To Be Addressed Is That Regarding  
13 The **COVID-19** Mandates For Mail and/or Packaging Signature Services  
14 That Were Placed Into Effect and Made Public To Everyone In Which It  
15 Was Widely Publicized:

16  
17 **FOR-FEDEX-MAIL;**

18 To promote the Centers for Disease Control's guidance on social  
19 distancing and do our part to help prevent the spread of **COVID-19** across  
20 our communities, effective immediately we have temporarily implemented  
21 no-contact pickups and deliveries, including temporarily suspending most  
22 signature requirements for FedEx Express and FedEx Ground commercial  
23 and residential deliveries in the U.S. and Canada.

24 The signature suspension also includes FedEx Freight in the U.S. and  
25 those normally required as part of our same-day service, as well as in our  
26 FedEx Office retail stores and FedEx Onsite locations at various retailers.  
27 In most cases, after making contact with the recipient, the team member  
28

1 will collect the recipient's first initial and last name and enter "C-19" in  
2 place of the signature image.

3 If an adult signature was requested by the shipper, the team member  
4 will collect the recipient's first initial and last name, and then attempt to  
5 collect a signature with the recipient's own writing instrument; if the  
6 recipient refuses to sign, the team member will enter "C-19" in place of the  
7 signature image.

### 8 **FOR-UPS-MAIL;**

9 In the interest of employee and customer safety, UPS's Signature  
10 Required guidelines are temporarily being adjusted such that consignees  
11 will no longer need to sign for UPS Signature Required deliveries.

12 Despite this adjusted process the driver will still need to make contact  
13 with the consignee. The consignee must, at the time of delivery,  
14 acknowledge that UPS is making a delivery and, if applicable, show  
15 government issued photo ID (Which was left to the discretion of each  
16 individual delivery driver!).

### 17 **FOR USPS-MAIL;**

18 If you send Certified Mail with Return Receipt Requested (Either in  
19 the traditional green card format or the newer electronic version), please be  
20 aware that some USPS mail carriers are now using a contact-less approach  
21 to this process.

22 **iMailTracking** is starting to see return receipts that are not signed by  
23 the recipient listed on the letter, nor are they signed by anyone at the  
24 destination location. Instead, the mail carrier is signing the return receipt  
25 themselves.

1 This process does not appear to be uniform. Some carriers are signing  
2 their names and then marking the "Agent" box next to their signature.  
3 Others are simply writing "COVID-19," "C19," or some other indication  
4 that the letter was delivered and accepted.  
5

6 This **COVID-19** With The U.S. Mail and/or Packaging Services  
7 Mandates To NOT-REQUIRE-SIGNITURES Along With The Suspension  
8 Of Many If Not Most Activities By Process Servers Was Just One Of The  
9 Reasons For The Plaintiff's Request To The Court Dated June 29, 2020! It  
10 Now Appears That It Was Wrongfully Assumed By The Plaintiff That The  
11 Attorneys, Courts and Defendants Were ALL Well Aware Of These Mail  
12 and/or Packaging and Process Server Problems Throughout The Country  
13 Since These Very Same Attorneys, Courts and Defendants Were  
14 ALREADY Practicing The Federal CDC Mandates Regarding This  
15 Pandemic!  
16

17  
18 If The Court Will Now Refer To The Plaintiff's Request Dated April  
19 9, 2020, "Plaintiff's Requesting For Extension Of Time To Complete The  
20 Court Ordered First Amended Complaint", and Read Line 9 Through 15,  
21 They Will See The Plaintiff At That Time Had Already Listed The  
22 **COVID-19** Mandates As Being Responsible For The Interference With  
23 Various Functions Within The Legal Practice From Legal Consul To  
24 Printing and Packaging (Being Mail and Package) Services.  
25

---

26 **ITEM-2:**

27 Now The Next Item To Address Regarding Other Ambiguous Arizona  
28 Legal Rules That Were Discovered Included **Rule 4(g)(4), Rule 4.1(k)(3)**

1 AND **Rule 4.1(l)** Which Addresses Service By Publication! Under **Rule**  
2 **4(g)(4)**, It States That IF Service Is Done By Publication, "Service must be  
3 made as provided in Rules 4.1(l) and 4.2(f)". Under **Rule 4.1(k)(3)**,  
4 Service By Publication Is Listed As An "Alternative Means Of Service"  
5 Requiring The Court's Authorization Where Under **Rule 4(g)(4)**, **Rule**  
6 **4.1(l)**, AND **Rule 4.2(f)** It Is Listed Only As "Service By Publication"  
7 Indicating It NEED-NOT Be Authorized By The Court! If The Court  
8 Wishes To Investigate This Claim Further They Will ALSO Find Under  
9 The Federal Rules Of Civil Procedure, **Rule 4(e)**, It ALSO States That  
10 "Service By Publication" NEED-NOT Be Authorized By The Court!  
11

12 This Was The Reason For The Plaintiff's Request To The Court Dated  
13 June 29, 2020 In Which The Plaintiff Listed **Rule 4.1(k)(3)** AND **Rule**  
14 **4.1(l)** On The Request To Show The Court The Actual Conflict In Law!  
15 The Actual Request Of An Alternative Means Of Service Was However  
16 For Permission To Serve These Defendants By, "The Known and Currently  
17 Active Employment and/or Home Personal E-Mails Of Those Named  
18 Defendants". The Statement By The Court That The Plaintiff Served The  
19 Summons and Documents To The Defendants Against That Ordered By  
20 The Court, Where Page 2, Line 23 States: "Consequently the defendants  
21 were not required to respond" IS-INCORRECT and The Plaintiff Now  
22 Formally and Strenuously **OBJECTS** To This Claim! As One Can Clearly  
23 See It Is The Rules With The Mis-Interpretation By The Court and/or  
24 Plaintiff That Led To This Confusion!  
25

26  
27 The Plaintiff Would Now At This Time Like To Respectfully Request  
28 That This Court Immediately Contact The Necessary Federal and/or State

1 Departments and Its People To Alert Them To These Problems With The  
2 Laws and Have Them Corrected As Fast As Possible To Prevent Further  
3 Problems With Court Cases and The Possibility Of Violating A Persons  
4 Civil, Constitutional and/or Legal Rights Eventually Resulting In Legal  
5 Charges Against The Attorneys, Defendants and Others!  
6

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7 **ITEM-3:**  
8

9 In Addressing The Courts Comments Found On Page 2 Of Their Order,  
10 Line 18, (Which Refers To Footnote Number 2 Found At The Bottom Of  
11 The Same Page.) The Plaintiff Needed To Review The Document Labeled  
12 "Official Testimony Of Contents Within The Court Summons Mail Packages  
13 Sent To Each Defendant" Dated July 16, 2020 To See What Was Actually  
14 Listed For The Document In Question. It Was Discovered This Was A  
15 Typographical Error On The Document and The Actual Document Sent Was  
16 The "FIRST AMENDED COMPLAINT" Not A "COURT COMPLAINT"!

17 It Was Determined The Correct-Documents Were Sent and If The Court  
18 Or Others Wish To Validate This Claim By The Plaintiff, They Need Only  
19 To Request One Of The Actual Mail Packages That Were Rejected and  
20 Returned Since There Are Four To Choose From. These Packages Which  
21 Were All Sealed At WEPAK-N-SHIP, and Were Sent To These  
22 Defendants Who Then Rejected and Returned Them Have NEVER Been  
23 Opened Since Their Initial Shipment By FEDEX. These Packages Also  
24 Have All The Necessary Postal Marks, Tracking Codes Including The  
25 Companies Own Internal Mail Drop Labels, Written Notes, Stickers, etc.  
26 Still Affixed To Them To Prove They Are Legitimate.  
27  
28

1 As The Court Is Well Aware, The Ones That Were Returned Are  
2 From A **Dr. Arthur J. Bacon**, A **Mary W. Richardson**, A **Patricia A.**  
3 **Brutscher** and A **Sean T. Kurysh**. If The Court Does NOT Wish To Do  
4 This To Validate These Claims By The Plaintiff, The Plaintiff Will At His  
5 Own Discretion Contact Another Attorney, Another Clerk Of Court,  
6 Federal Marshal and/or Other To Have Them Open One Of These  
7 Document Packages and Forward A Detailed Report Of The Contents To  
8 The Court To Be Entered As Evidence Into The Official Court Record. The  
9 Plaintiff Is Sorry For This Typographical Error and The Confusion It Has  
10 Caused the Court As This One Being Due To A Poor Choice Of Words  
11 Slipped By Six Different People.  
12

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### 13 PLAINTIFF'S SUMMARY

14

15 Upon Receiving The Courts Order Dated October 14, 2020, The  
16 Plaintiff Discovered The Court Had Made A Number Of Assumptions and  
17 Mistaken Claims Against The Plaintiff Regarding The Service Of The  
18 Court Summons and Related Court Ordered Documents Upon The  
19 Defendants. In Order To Help The Court and Plaintiff Both Logically  
20 Resolve These Issues and Eliminate The Confusion Surrounding The  
21 Arizona Laws Under 16 A.R.S. Rules of Civil Procedure, Rule 4, Rule 4.1  
22 **AND Rule 4.2**, The Plaintiff Put Forth This Detailed Response For The  
23 Court's Review.

24 1) On June 29, 2020 The Plaintiff Requested That The Court Allow Him  
25 To Serve The Defendants Their Court Summons and Court Documents  
26 By An Alternative Means!  
27  
28

- 1       2) The Plaintiff's Request Was Due To The **COVID-19** Mandates Set  
2       Forth By The Federal Government's **CDC** Shutting Down Most  
3       Businesses and Disrupting ALL Operations Throughout The Country!
- 4       3) These **COVID-19** Mandates Resulted In The Suspension Of Most Mail  
5       and/or Package Signature Services Along With The Suspension Of  
6       Many If Not Most Process Server Activities Throughout The Country!
- 7       4) The Request To The Court On June 29, 2020 Was Specifically For  
8       Permission To Utilize The Defendants Last Known and Confirmed  
9       Business and/or Home E-Mail Addresses In Order To Serve Them Their  
10      Court Ordered Summons!
- 11      5) The Plaintiff Also Included Within His Request A Sample Of The  
12      Arizona Laws **Rule 4.1(k)** AND **Rule 4.1(l)** To Show The Court There  
13      Were Conflicts Within These Arizona Laws Regarding The Service Of  
14      These Summons!
- 15      6) The Court Immediately Rejected The Plaintiff's Request Claiming, "He  
16      made no showing for why he could not comply with **Rule 4**" At A Time  
17      When Many If Not Most Other Courts Throughout The Country Were  
18      Automatically Endorsing Such Requests Due To The **COVID-19**  
19      Disruption Of Their Court's Operations and Process Server Activities!
- 20      7) The Plaintiff Then Served The Summons To The Defendants By Mail  
21      Under **Rule 4.1(d)(3)** AND **Rule 4.2(c)(1)**, With A Tracking Number  
22      To Prove To The Court The Delivery Was Made To The Appropriate  
23      Person and Location! (Note How These Laws Do NOT Stipulate  
24      Whether The Address Is A Business Or Home Address While The Term  
25      "DELIVERING" Does NOT State By Hand, Mail Or Other Means.)
- 26      8) The Court Should Also Note That Under **Rule 4(a)(3)**, **Rule 4.1(i)** AND  
27      **Rule 4.2(h)** For Serving A Corporation, Partnership Or Other  
28



1 Unincorporated Association It Was Found These Rules Only State  
2 Delivery Or Service Without Stipulating Whether This Service Is By  
3 Hand, Mail Or Other Means and/or Required The Courts Authorization!

4 9) The Plaintiff Also Served The Summons To The Defendants By  
5 Publication Under **Rule 4(g)(4), Rule 4.1(l) AND Rule 4.2(f)(1)**, In The  
6 Local Newspaper's Legal Notice Section Where An Affidavit With The  
7 Newspaper Tear-Sheets Were Provided To Show Proof Of Service To  
8 The Court!

9 10) It Was The Plaintiff's Understanding That Under **Rule 4(a)(3), Rule**  
10 **4.1(d)(3), Rule 4.1(i) AND Rule 4.2(c)(1)** With **Rule 4.2(h)** For Mail,  
11 Along With **Rule 4.1(l) AND Rule 4.2(f)(1)** For Publication DID-NOT  
12 Require Authorization By The Court As Some Of These Laws Were In  
13 Conflict With Other Laws Listing Them As An "ALTERNATIVE  
14 MEANS OF SERVICE" and ALL-DID-NOT List Any Exclusions!

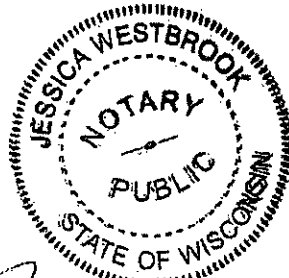
15 11) The Court Also Stated The Plaintiff Served The WRONG Civil  
16 Complaint Document Upon The Defendants, However Upon  
17 Investigation It Was Found The Document Named In The Plaintiff's  
18 July 16, 2020 Contents Document To The Court Listing It As A  
19 "COURT COMPLAINT" Was A Typographical Error On The  
20 Document and The Actual Document Sent Was The "FIRST  
21 AMENDED COMPLAINT"! (The Plaintiff Is Sorry For The Poor  
22 Choice In Wording That Has Caused This Confusion To The Court.)  
23

24  
25 The Plaintiff DID-NOT Defy The Court's Orders and At The Time Of  
26 This Document It Was Found The Plaintiff DID Follow The Arizona Rules  
27 and Procedures As They Were Written While Adhering To The Federal  
28 CDC and Government's COVID-19 Pandemic Mandates! The Plaintiff

1 However Will Still Attempt To RE-SERVE The Summons Upon The  
2 Defendants As Outlined By The Courts October 14, 2020, Order, Page 3  
3 and Page 4, Even Though The Arizona and Federal Laws Show That  
4 Service Of The Summons Was Correctly, Legally and Successfully  
5 Accomplished!! Hopefully This Response Helps The Court With Their  
6 Understanding Of What Had Happened and They Will Honor The Request  
7 Of The Plaintiff By Having The Proper Personnel and/or Authority Go  
8 Back and Correct These Obvious Errors To Prevent The Wrongful  
9 Termination Of One's Case and Multiple Violations Of Law By Attorneys,  
10 Courts, Defendants and Others! (This Information Has Also Been  
11 Forwarded On To The Appropriate Federal and/or Legal Authorities For  
12 Them To Review and Implement The Necessary Corrections As Needed.)  
13

---

14  
15  
16 Dated This Month Of: 10, Day Of: 26, Year Of: 2020



23  
24  
25  
26  
27  
28

*Jessica Westbrook*  
Wood County, WI  
tx: 6/24/2022

Respectfully Submitted

*Paul E. Jozwiak*  
Paul E. Jozwiak

404 South Cedar Ave.,

Marshfield, WI 54449

Phone: (520)-818-4976

E-Mail: Orion5x5x9@yahoo.com

1 WO

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
8

9 Paul E Jozwiak,  
10 Plaintiff,

No. CV-20-00039-TUC-DCB

ORDER

11 v.

12 Raytheon Missile Systems, et al.,  
13 Defendants.  
14

15 Plaintiff filed this case on January 24, 2020 and sought leave to proceed *in forma*  
16 *pauperis*. The Court denied the request for *in forma pauperis* status and dismissed the  
17 Complaint *sua sponte*, with leave to amend. (Order (Doc. 9)). In the Order, the Court  
18 explained that Plaintiff's filings were not properly captioned as required by LRCiv.  
19 7.1(a)(3)(B) because the document title page reflected "Verified Complaint" with the true  
20 nature of the document reflected on the second page of the document. *Id.* at 1. The Court  
21 explained that the title used on page two should instead be on the title page. Plaintiff  
22 continues to file documents miscaptioned as "Verified Complaint." *See* Verified Complaint  
23 (Doc. 41)<sup>1</sup> (caption on title page of document responding to Court's Order for Plaintiff to  
24 show cause why case should not be dismissed for lack of service). A complaint is a unique  
25 pleading document filed for the exclusive purpose of setting out the facts and claims  
26 alleged in a case; upon the filing of a complaint, a case is opened. There is only one

27 <sup>1</sup> Plaintiff is also confused regarding the proper case number. He shall put only one case  
28 number on the title page, which should be identical to the one reflected on this Order's title  
page.

Plaintiff's  
APPENDIX-J

1 complaint in a case, unless it is amended. Then, the amended complaint, like Plaintiff's  
2 First Amended Complaint (Doc. 13), becomes the pleading in the case and must be served  
3 with the Summons on the Defendants. Fed. R. Civ. P. 4(c).

4 On May 8, 2020, the Plaintiff filed the First Amended Complaint and on May 13,  
5 2020, he paid the filing fee. The Court ordered the Plaintiff to serve the Summons and a  
6 copy of the First Amended Complaint, pursuant to Fed. R. C. P. 4. (Order (Doc. 14)).

7 July 6, 2020, the Plaintiff sought leave to serve the Defendants by alternative means  
8 by publication or email. The Court denied that request because he made no showing for  
9 why he could not comply with Rule 4 and gave the Plaintiff 30 more days to accomplish  
10 service pursuant to Rule 4. (Order (Doc. 18)). On September 16, 2020, the Court issued an  
11 Order that the case was subject to dismissal unless the Plaintiff showed cause why he had  
12 failed to serve the Defendants. (Doc. 19.)

13 On September 25, 2020, the Plaintiff filed proofs of service (Docs. 20-39) and the  
14 Verified Complaint, which the Clerk of the Court docketed as a Notice (Doc. 41), which  
15 responds to the Court's Order to Show Cause. Plaintiff has served the Defendants by mail  
16 and publication. The Court denied the Plaintiff leave to serve Defendants alternatively on  
17 July 6, 2020. From the proofs of service, it appears that in June he served the Defendants,  
18 alternatively, without leave of the Court. He mailed the Summons and Complaint,<sup>2</sup> and a  
19 Requests to Waive Service, to Defendants' places of employment, delivered them to the  
20 mail clerks at their places of employment, and left them on doorsteps or in mail boxes at  
21 their homes. He also, alternatively, served them by publication. The problem is that he did  
22 not include in the service materials an Order of the Court authorizing these alternative  
23 means of service. Consequently, the Defendants were not required to respond.<sup>3</sup>

24 The Court has issued several Orders to direct the Plaintiff regarding the requisites  
25 for serving his First Amended Complaint, which he has ignored. The Court has instructed

26  
27 <sup>2</sup> The proofs of service say the Complaint was served; the Plaintiff is required to serve the  
First Amended Complaint, not the Complaint.

28 <sup>3</sup> The mailings were sufficient to deliver the Requests to Waive Service to the Defendants,  
and it appears that there were no waivers. Consequently, service must be completed  
pursuant to Fed. R. Civ. P. 4(e) and (h).

1 Plaintiff on how to caption his title pages for documents he files in this case, which he also  
2 has ignored. The Court shall afford the Plaintiff one more chance to properly serve the  
3 Defendants. If this Order is ignored, the case shall be dismissed for lack of service and  
4 failure to comply with directives of the Court.

5 Rule 4 of the Federal Rules of Civil Procedure allow the Plaintiff to follow state law  
6 for service. Rule 4.1 of the Arizona Rules of Civil Procedure allows for alternative service  
7 by mail, with permission from the Court. Ariz. R. Civ. P.4.1(k). Service by mail is an  
8 alternative to personal service, which requires the plaintiff to give the summons and  
9 complaint directly to the defendant or person over 18 residing with the defendant. The goal  
10 of service is to ensure actual notice of the action's commencement and that a response is  
11 required. The Court only allows the alternative service by mail because of the COVID 19  
12 pandemic, and it shall be performed pursuant to the directives given below or this action  
13 shall be dismissed without further notice to the Plaintiff.

14 To serve any Defendant, who the Plaintiff is suing in an individual capacity,  
15 meaning he seeks to hold that Defendant personally liable, Plaintiff shall mail a Summons,  
16 with a copy of the First Amended Complaint (Doc. 13), AND A COPY OF THIS ORDER,  
17 to the individual's last known home address. To serve Defendants, who acted in an official  
18 capacity, the Plaintiff shall mail a Summons, with a copy of the First Amended Complaint,  
19 AND A COPY OF THIS ORDER, to their last known place of employment. He may mail  
20 the same service materials to Raytheon and Met Life at their corporate headquarters,  
21 addressed attention Legal Department. The mailings must be sent by certified mail or other  
22 source of mail which requires a signature proof of service. Plaintiff shall file the proofs of  
23 service with the Court and certify that the documents served were the Summons, First  
24 Amended Complaint (Doc. 13), and a copy of this Order.

25 **Accordingly,**


26 **IT IS ORDERED** that the Plaintiff is granted one last extension of time to serve  
27 the Defendants.

28 **IT IS FURTHER ORDERED** that the Court approves alternative service on

1 Defendants by certified mail or other source of mail which requires a signature proof of  
2 service. Any Defendant being so served shall file a responsive pleading.

3 **IT IS FURTHER ORDERED** that within 30 days of the filing date of this Order,  
4 the Plaintiff shall fully comply with the directives of this Order, including obtaining new  
5 Summons from the Clerk of the Court, mailing the service materials as described herein,  
6 and filing the proofs of service. NO FURTHER EXTENSIONS SHALL BE GRANTED.  
7 Failure to comply with this Order for serving the Defendants within the time allowed shall  
8 result in dismissal of this action, without further notice to the Plaintiff.

9 Dated this 14th day of October, 2020.

10  
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13 David C. Bury  
14 United States District Judge  
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IT IS FURTHER ORDERED that the presiding judge in cooperation with the presiding judge of the juvenile court and public health agencies determine and adopt measures needed concerning the operation of juvenile detention centers and the placement of juveniles in treatment facilities.

Dated this 4th day of March, 2020.

---

ROBERT BRUTINEL  
Chief Justice



## APPENDIX A

Name	Superior Court
Hon. Michael Latham	Apache County
Hon. David Thorn	Cochise County
Hon. Terry Bannon	Cochise County
Hon. Fanny Steinlage	Coconino County
Hon. Bryan B. Chambers	Gila County
Hon. Michael D. Peterson	Graham County
Hon. Monica L. Stauffer	Greenlee County
Hon. Jessica L. Quickle	La Paz County
Hon. Dean Fink	Maricopa County
Hon. Lori Horn Bustamante	Maricopa County
Hon. Lee F. Jantzen	Mohave County
Hon. Robert Higgins	Navajo County
Hon. Michael J. Butler	Pima County
Hon. Barbara Hazel	Pinal County
Hon. Thomas Fink	Santa Cruz County
Hon. Denneen Peterson	Santa Cruz County (Back-up)
Hon. Michael R. Bluff	Yavapai County
Hon. John D. Napper	Yavapai County
Hon. Anna C. Young	Yavapai County
Hon. Roger A. Nelson	Yuma County



IT IS FURTHER ORDERED that the provisions of this order shall remain in effect until further order of this Court.

Dated this 7th day of October, 2020.

---

ROBERT BRUTINEL  
Chief Justice

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GENERAL ORDER No. 75

Temporary Suspension of Rules Regarding Personal Service  
by the United States Marshals Service During COVID-19 Public Health Emergency

WHEREAS, the Governor of the State of California has declared a state of emergency and shelter-in-place in response to the spread of the Novel Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and other public health authorities have advised taking precautions to reduce the possibility of exposure to the virus and slow the spread of the disease, it is hereby

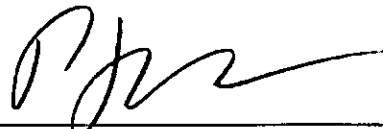
ORDERED by the United States District Court of the District of Northern California, that any requirement that personnel in the United States Marshals Service assigned to the Northern District of California effect personal service of process under Federal Rule of Civil Procedure 4(c)(3), 28 U.S.C. § 1915(d), or 28 U.S.C. § 1916, for any cases pending in this District or any other district, is SUSPENDED until further Order of the Court; and it is further

ORDERED that this Order does not apply to service of process by mail, waivers of service under Federal Rule of Civil Procedure 4(d), or service by electronic means, unless otherwise ordered by the Court upon notification by the United States Marshals Service that effecting service of process by mail or electronic means as may be authorized by the California Rules of Civil Procedure – or any equivalent rule of civil procedure applicable to cases pending in any other district where United States Marshals Service personnel assigned to the Northern District of California have been ordered to effect personal service – would interfere with other critical functions they are performing in connection with responding to the COVID-19 public health emergency; and it is further

ORDERED that, in any civil case in which the United States Marshals Service has been ordered to serve process, the time for service under Federal Rule of Civil Procedure 4(m) is TOLLED until further Order of the Court.

ADOPTED: March 30, 2020

FOR THE COURT:



PHYLLIS J. HAMILTON  
CHIEF JUDGE

Plaintiff's  
APPENDIX-M

**FILED**

**MAR 31 2020**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

IN RE: SUSPENSION OF PROCESS  
SERVICE BY U.S. MARSHALS SERVICE  
IN DISTRICT OF COLUMBIA DUE TO  
EXIGENT CIRCUMSTANCES CREATED  
BY THE COVID-19 PANDEMIC

Standing Order No. 20-18 (BAH)

Chief Judge Beryl A. Howell

**ORDER**

Upon consideration of current circumstances relating to the ongoing Coronavirus Disease 2019 (COVID-19) pandemic, including: (a) the state of emergency declared by the Mayor of the District of Columbia on March 11, 2020 and the national emergency declared by the President of the United States on March 13, 2020<sup>1</sup>; (b) the “stay-at-home” orders issued by the Mayor of the District of Columbia and the Governors of Maryland and Virginia on March 30, 2020, which orders require residents to remain at home unless engaged in essential activities, reflecting the seriousness of the pandemic in this region as of this date;<sup>2</sup> (c) guidance from the Centers for Disease Control and Prevention (CDC) and other public health authorities that limiting personal contacts and public gatherings is necessary to reduce the possibility of exposure to the virus and

<sup>1</sup> *Mayor Bowser Declares Public Health Emergency*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://mayor.dc.gov/release/mayor-bowser-declares-public-health-emergency> (last visited Mar. 31, 2020); *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (last visited Mar. 31, 2020).

<sup>2</sup> *Stay Home DC*, OFFICE OF THE MAYOR OF THE DISTRICT OF COLUMBIA, <https://coronavirus.dc.gov/stayhome> (last visited Mar. 31, 2020); *As COVID-19 Crisis Escalates in Capital Region, Governor Hogan Issues Stay at Home Order Effective Tonight*, OFFICE OF THE GOVERNOR OF MARYLAND, <https://governor.maryland.gov/2020/03/30/as-covid-19-crisis-escalates-in-capital-region-governor-hogan-issues-stay-at-home-order-effective-tonight/> (last visited Mar. 31, 2020); *Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19)*, OFFICE OF THE GOVERNOR OF THE COMMONWEALTH OF VIRGINIA, [https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-(COVID-19).pdf) (last visited Mar. 31, 2020).

to slow the community spread of the disease; (d) an announcement by the President of the United States on March 29, 2020 that social distancing guidelines will remain in effect at least until the end of April, 2020,<sup>3</sup> reflecting the seriousness of the need to combat the community spread of the virus; it is hereby

**ORDERED** that any requirement that personnel in the United States Marshals Service assigned to the District of the District of Columbia effect personal service of process, under Federal Rule of Civil Procedure 4(c)(3), 28 U.S.C. § 1915(d) or 28 U.S.C. § 1916, for any cases pending in this District or any other district is **SUSPENDED** until further order of the Court or **June 15, 2020**, whichever is earlier; it is further

**ORDERED** that this Order does not apply to service of process by other means, including service of process by mail, waivers of service under Federal Rule of Civil Procedure 4(d), or service by electronic means; and it is further

**ORDERED** that, in any civil case in which the United States Marshals Service has been ordered to serve process, the time for service under Federal Rule of Civil Procedure 4(m) is **TOLLED** until further order of the Court or **June 15, 2020**, whichever is earlier.

**SO ORDERED.**

Dated: March 31, 2020



Beryl A Howell  
Chief Judge

<sup>3</sup> *Remarks by President Trump and Members of the Coronavirus Task Force in a Press Briefing*, OFFICE OF THE PRESIDENT OF THE UNITED STATES, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-members-coronavirus-task-force-press-briefing/> (last visited Mar. 31, 2020).

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**Rule 4. Summons**  
 Arizona Revised Statutes Annotated  
 Rules of Civil Procedure for the Superior Courts of Arizona

Arizona Revised Statutes Annotated

Rules of Civil Procedure for the Superior Courts of Arizona (Refs &amp; Annos)

II. Commencing an Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

16 A.R.S. Rules of Civil Procedure, Rule 4

**Rule 4. Summons**Currentness**(a) Issuance; Service.**

(1) *Pleading Defined.* As used in this rule, Rule 4.1, and Rule 4.2, "pleading" means any of the pleadings authorized by Rule 7 that bring a party into an action--a complaint, third-party complaint, counterclaim, or crossclaim.

(2) *Issuance.* On or after filing a pleading, the filing party may present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the filing party for service. A summons--or a copy of the summons if addressed to multiple parties--must be issued for each party to be served.

(3) *Service.* A summons must be served with a copy of the pleading. Service must be completed as required by this rule, Rule 4.1, or 4.2, as applicable.

**(b) Contents; Replacement Summons.**

(1) *Contents.* A summons must:

(A) name the court and the parties;

(B) be directed to the party to be served;

(C) state the name and address of the attorney of the party serving the summons or--if unrepresented--the party's name and address;

(D) state the time within which the defendant must appear and defend;

(E) notify the party to be served that a failure to appear and defend will result in a default judgment against that party for the relief demanded in the pleading;

(F) state that "requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding";

(G) be signed by the clerk; and

(H) bear the court's seal.

(2) *Replacement Summons.* If a summons is returned without being served, or if it has been lost, a party may ask the clerk to issue a replacement summons in the same form as the original. A replacement summons must be issued and served within the time prescribed by Rule 4(i) for service of the original summons.

(c) *Fictitiously Named Parties; Return.* If a pleading identifies a party by a fictitious name under Rule 10(d), the summons may issue and be directed to a person with the fictitious name. The return of service of process on a person identified by a fictitious name must state the true name of the person who was served.

**(d) Who May Serve Process.**

(1) *Generally.* Service of process must be made by a sheriff, a sheriff's deputy, a constable, a constable's deputy, a private process server certified under the Arizona Code of Judicial Administration § 7-204 and Rule 4(e), or any other person specially appointed by the court. Service of process may also be made by a party or that party's attorney if expressly authorized by these rules.

**(2) Special Appointment.**

(A) **Qualifications.** A specially appointed person must be at least 21 years of age and must not be a party, an attorney, or an employee of an attorney in the action in which process is to be served.

(B) **Procedure for Appointment.** A party may request a special appointment to serve process by filing a motion with the presiding superior court judge in the county where the action is pending. The motion must be accompanied by a proposed order. If the proposed order is signed, no minute entry will issue. Special appointments should be granted freely, are valid only for the cause specified in the motion, and do not constitute an appointment as a certified private process server.

**(e) Statewide Certification of Private Process Servers.** A person seeking certification as a private process server must file with the clerk an application under Arizona Code of Judicial Administration § 7-204. Upon approval of the court or presiding judge of the county in which the application is filed, the clerk will register the person as a certified private process server, which will remain in effect unless and until the certification is withdrawn by the court. The clerk must maintain a register for this purpose. A certified private process server will be entitled to serve in that capacity for any state court within Arizona.

**(f) Accepting or Waiving Service; Voluntary Appearance.** There are two ways to accomplish service with the assent of the served party--waiver and acceptance. A party also may voluntarily appear without being served.

(1) **Waiving Service.** A party subject to service under Rule 4.1 or 4.2 may waive issuance or service. The waiver of service must be in writing, signed by that party or that party's authorized agent or attorney, and be filed in the action. A party who waives service receives additional time to serve a responsive pleading, as provided in Rule 12(a)(1)(A)(ii).

(2) **Accepting Service.** A party subject to service under Rule 4.1 or 4.2 may accept service. The acceptance of service must be in writing, signed by that party or that party's authorized agent or attorney, and be filed in the action. A party who accepts service does not receive the additional time to serve a responsive pleading under Rule 12(a)(1)(A)(ii).

**(3) Voluntary Appearance.**

(A) **In Open Court.** A party on whom service is required may, in person or by an attorney or authorized agent, enter an appearance in open court. The appearance must be noted by the clerk on the docket and entered in the minutes.

(B) **By Responsive Pleading.** The filing of a pleading responsive to a pleading allowed under Rule 7 constitutes an appearance by the party.

(4) **Effect.** Waiver, acceptance, and appearance under (f)(1), (f)(2), and (f)(3) have the same force and effect as if a summons had been issued and served.

**(g) Return; Proof of Service.**

(1) **Timing.** If service is not accepted or waived, and no voluntary appearance is made, then the person effecting service must file proof of service with the court. Return of service should be made by no later than when the served party must respond to process.

(2) **Service by the Sheriff.** If a summons is served by a sheriff or deputy sheriff, the return must be officially marked on or attached to the proof of service and promptly filed with the court.

(3) **Service by Others.** If served by a person other than a sheriff or deputy sheriff, the return must be promptly filed with the court and be accompanied by an affidavit establishing proof of service. If the server is a registered private process server, the affidavit must clearly identify the county in which the server is registered.

(4) **Service by Publication.** If the summons is served by publication, the return of the person making such service must be made as provided in Rules 4.1(f) and 4.2(f).

(5) **Service Outside the United States.** Service outside the United States must be proved as follows:

(A) if effected under Rule 4.2(i)(1), as provided in the applicable treaty or convention; or

(B) if effected under Rule 4.2(i)(2), by a receipt signed by the addressee, or other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(6) **Validity of Service.** Failure to make proof of service does not affect the validity of service.

**(h) Amending Process or Proof of Service.** The court may permit process or proof of service to be amended.

**(i) Time Limit for Service.** If a defendant is not served with process within 90 days after the complaint is filed, the court--on motion, or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This Rule 4(i) does not apply to service in a foreign country under Rules 4.2(i), (j), (k), and (l).

**Credits**

Added Sept. 2, 2016, effective Jan. 1, 2017. Amended Aug. 31, 2017, effective Jan. 1, 2018.



16 A. R. S. Rules Civ. Proc., Rule 4, AZ ST RCP Rule 4

State Court Rules are current with amendments received through 10/15/21. The Code of Judicial Administration is current with amendments received through 10/15/21.

END OF DOCUMENT

## WESTLAW Arizona Court Rules

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**Rule 4.1. Service of Process Within Arizona**  
 Arizona Revised Statutes Annotated  
 Rules of Civil Procedure for the Superior Courts of Arizona  
 Effective: [See Text Amendments] to December 31, 2021

Arizona Revised Statutes Annotated

Rules of Civil Procedure for the Superior Courts of Arizona (Refs &amp; Annos)

II. Commencing an Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

Effective: [See Text Amendments] to December 31, 2021

16 A.R.S. Rules of Civil Procedure, Rule 4.1

**Rule 4.1. Service of Process Within Arizona**Currentness

**(a) Territorial Limits of Effective Service.** All process—including a summons—may be served anywhere within Arizona.

**(b) Serving a Summons and Complaint or Other Pleading.** The summons and the pleading being served must be served together within the time allowed under Rule 4(i). The serving party must furnish the necessary copies to the person who makes service. Service is complete when made.

**(c) Waiving Service.**

(1) *Requesting a Waiver.* An individual, corporation, or association that is subject to service under Rule 4.1(d), (h)(1)-(3), (h)(4)(A), or (i) has a duty to avoid unnecessary expense in serving the summons. To avoid costs, the plaintiff may notify the defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(A) be in writing and be addressed to the defendant and any other person required in this rule to be served with the summons and the pleading being served;

(B) name the court where the pleading being served was filed;

(C) be accompanied by a copy of the pleading being served, two copies of a waiver form prescribed in Rule 84, Form 2, and a prepaid means for returning the completed form;

(D) inform the defendant, using text provided in Rule 84, Form 1, of the consequences of waiving and not waiving service;

(E) state the date when the request is sent;

(F) give the defendant a reasonable time to return the waiver, which must be at least 30 days after the request was sent; and

(G) be sent by first-class mail or other reliable means.

(2) *Failure to Waive.* If a defendant fails without good cause to sign and return a waiver requested by a plaintiff, the court must impose on the defendant:

(A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(3) *Time to Answer After a Waiver.* A defendant who, before being served with process, timely returns a waiver need not serve an answer or otherwise respond to the pleading being served until 60 days after the request was sent.

(4) *Results of Filing a Waiver.* When the plaintiff files an executed waiver, proof of service is not required and, except for the additional time in which a defendant may answer or otherwise respond as provided in Rule 4.1(c)(3), these rules apply as if a summons and the pleading being served had been served at the time of filing the waiver.

(5) *Jurisdiction and Venue Not Waived.* Waiving service of a summons does not waive any objection to personal jurisdiction or venue.

**(d) Serving an Individual.** Unless Rule 4.1(c), (e), (f), or (g) applies, an individual may be served by:

**Plaintiff's  
APPENDIX-O2**

- (1) delivering a copy of the summons and the pleading being served to that individual personally;
- (2) leaving a copy of each at that individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or
- (3) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

**(e) Serving a Minor.** Unless Rule 4.1(f) applies, a minor less than 16 years old may be served by delivering a copy of the summons and the pleading being served to the minor in the manner set forth in Rule 4.1(d) for serving an individual and also delivering a copy of each in the same manner:

- (1) to the minor's parent or guardian, if any of them reside or may be found within Arizona; or
- (2) if none of them resides or is found within Arizona, to any adult having the care and control of the minor, or any person of suitable age and discretion with whom the minor resides.

**(f) Serving a Minor Who Has a Guardian or Conservator.** If a court has appointed a guardian or conservator for a minor, the minor must be served by serving the guardian or conservator in the manner set forth in Rule 4.1(d) for serving an individual, and separately serving the minor in that same manner.

**(g) Serving a Person Adjudicated Incompetent Who Has a Guardian or Conservator.** If a court has declared a person to be insane, gravely disabled, incapacitated, or mentally incompetent to manage that person's property and has appointed a guardian or conservator for the person, the person must be served by serving the guardian or conservator in the manner set forth in Rule 4.1(d) for serving an individual, and separately serving the person in that same manner.

**(h) Serving a Governmental Entity.** If a governmental entity has the legal capacity to be sued and it has not waived service under Rule 4.1(c), it may be served by delivering a copy of the summons and the pleading being served to the following individuals:

- (1) for service on the State of Arizona, the Attorney General;
- (2) for service on a county, the Board of Supervisors clerk for that county;
- (3) for service on a municipal corporation, the clerk of that municipal corporation; and
- (4) for service on any other governmental entity:
  - (A) the individual designated by the entity, as required by statute, to receive service of process; or
  - (B) if the entity has not designated a person to receive service of process, then the entity's chief executive officer(s), or, alternatively, its official secretary, clerk, or recording officer.

**(i) Serving a Corporation, Partnership, or Other Unincorporated Association.** If a domestic or foreign corporation, partnership, or other unincorporated association has the legal capacity to be sued and has not waived service under Rule 4.1(c), it may be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant.

**(j) Serving a Domestic Corporation If an Authorized Officer or Agent Is Not Found Within Arizona.**

(1) *Generally.* If a domestic corporation does not have an officer or an agent within Arizona on whom process can be served, the corporation may be served by depositing two copies of the summons and the pleading being served with the Arizona Corporation Commission. Following this procedure constitutes personal service on that corporation.

(2) *Evidence.* If the sheriff of the county in which the action is pending states in the return that, after diligent search or inquiry, the sheriff has been unable to find an officer or agent of such corporation on whom process may be served, the statement constitutes prima facie evidence that the corporation does not have such an officer or agent in Arizona.

(3) *Commission's Responsibilities.* The Arizona Corporation Commission must retain one of the copies of the summons and the pleading being served for its records and immediately mail the other copy, postage prepaid, to the corporation or any of the corporation's officers or directors, using any address obtained from the corporation's articles of incorporation, other Corporation Commission records, or any other source.

**(k) Alternative Means of Service.**

(1) *Generally.* If a party shows that the means of service provided in Rule 4.1(c) through Rule 4.1(j) are impracticable, the court may—on motion and without notice to the person to be served—order that service may be accomplished in another manner.

(2) *Notice and Mailing.* If the court allows an alternative means of service, the serving party must make a reasonable effort to provide the person being served with actual notice of the action's commencement. In any event, the serving party must mail the summons, the pleading being served, and any court order authorizing an alternative means of service to the last-known business or residential address of the person being served.

(3) *Service by Publication.* A party may serve by publication only if the requirements of Rule 4.1(f), 4.1(m), 4.2(f), or 4.2(g) are met and the procedures provided in those rules are followed.

**(f) Service by Publication.**

(1) *Generally.* A party may serve a person by publication only if:

(A) the last-known address of the person to be served is within Arizona but:

- (i) the serving party, despite reasonably diligent efforts, has been unable to ascertain the person's current address; or
- (ii) the person to be served has intentionally avoided service of process; and

(B) service by publication is the best means practicable in the circumstances for providing the person with notice of the action's commencement.

(2) *Procedure.*

(A) *Generally.* Service by publication is accomplished by publishing the summons and a statement describing how a copy of the pleading being served may be obtained at least once a week for 4 successive weeks:

- (i) in a newspaper published in the county where the action is pending; and
- (ii) if the last-known address of the person to be served is in a different county, in a newspaper in that county.

(B) *Who May Serve.* Service by publication may be made by the serving party, its counsel, or anyone authorized under Rule 4(d).

(C) *Alternative Newspapers.* If no newspaper is published in a county where publication is required, the serving party must publish the summons and statement in a newspaper in an adjoining county.

(D) *Effective Date of Service.* Service is complete 30 days after the summons and statement is first published in all newspapers where publication is required.

(3) *Mailing.* If the serving party knows the address of the person being served, it must, on or before the date of first publication, mail to the person the summons and a copy of the pleading being served, postage prepaid.

(4) *Return.*

(A) *Required Affidavit.* The party or person making service must prepare, sign and file an affidavit stating the manner and dates of the publication and mailing, and the circumstances warranting service by publication. If no mailing was made because the serving party did not know the current address of the person being served, the affidavit must state that fact.

(B) *Accompanying Publication.* A printed copy of the publication must accompany the affidavit.

(C) *Effect.* An affidavit that complies with these requirements constitutes prima facie evidence of compliance with the requirements for service by publication.

**(m) Service by Publication on an Unknown Heir in a Real Property Action.** An unknown heir of a decedent may be sued as an unknown heir and be served by publication in the county where the action is pending, using the procedures provided in Rule 4.1(f), if:

- (1) the action in which the heir will be served is for the foreclosure of a mortgage on real property or is some other type of action involving title to real property; and
- (2) the heir must be a party to the action to permit a complete determination of the action.

**Credits**

Added Sept. 2, 2016, effective Jan. 1, 2017.

16 A. R. S. Rules Civ. Proc., Rule 4.1, AZ ST RCP Rule 4.1

State Court Rules are current with amendments received through 10/15/21. The Code of Judicial Administration is current with amendments received through 10/15/21.

END OF DOCUMENT

## WESTLAW Arizona Court Rules

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**Rule 4.2. Service of Process Outside Arizona**  
 Arizona Revised Statutes Annotated  
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 Effective: [See Text Amendments] to December 31, 2021

Arizona Revised Statutes Annotated

Rules of Civil Procedure for the Superior Courts of Arizona (Refs &amp; Annos)

II. Commencing an Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

Effective: [See Text Amendments] to December 31, 2021

16 A.R.S. Rules of Civil Procedure, Rule 4.2

**Rule 4.2. Service of Process Outside Arizona**Currentness

**(a) Extraterritorial Jurisdiction; Personal Service Outside Arizona.** An Arizona state court may exercise personal jurisdiction over a person, whether found within or outside Arizona, to the maximum extent permitted by the Arizona Constitution and the United States Constitution. A party may serve any person located outside Arizona as provided in this rule, and, when service is made, it has the same effect as if personal service were accomplished within Arizona.

**(b) Direct Service.**

**(1) Generally.** A party may serve process outside Arizona, but within the United States, in the same manner as provided in Rules 4.1(d) through (j).

**(2) Who May Serve.** Service must be made by a person who is authorized to serve process under the law of the state where service is made.

**(3) Effective Date of Service.** Service is complete when made, and the time period under Rule 4.2(m) starts to run on that date.

**(c) Service by Mail.**

**(1) Generally.** If a serving party knows the address of the person to be served and the address is outside Arizona but within the United States, the party may serve the person by mailing the summons and a copy of the pleading being served to the person at that address by any form of postage-prepaid mail that requires a signed and returned receipt.

**(2) Affidavit of Service.** When the post office returns the signed receipt, the serving party must file an affidavit stating:

(A) the person being served is known to be located outside Arizona but within the United States;

(B) the serving party mailed the summons and a copy of the pleading or other request for relief to the person by any form of mail described in Rule 4.2(c)(1);

(C) the serving party received a signed return receipt, which is attached to the affidavit and which indicates that the person received the described documents; and

(D) the date of receipt by the person being served.

**(d) Waiver of Service.**

**(1) Requesting a Waiver.** An individual, corporation, or association that is subject to service under Rule 4.2(b), (c), (h), (i), or (k) has a duty to avoid unnecessary expense in serving the summons. The plaintiff may notify the defendant that an action has been commenced and request that the defendant waive service of a summons. The notice and request must:

(A) be in writing and be addressed to the defendant in accordance with Rule 4.2(b), (c), (h), (i), or (k), as applicable;

(B) name the court where the pleading being served was filed;

(C) be accompanied by a copy of the pleading being served, two copies of a waiver form set forth in Rule 84, Form 2, and a prepaid means for returning the completed form;

**Plaintiff's**  
**APPENDIX-O3**

(D) inform the defendant, using the text provided in Rule 84, Form 1, of the consequences of waiving and not waiving service;

(E) state the date when the request is sent;

(F) give the defendant a reasonable time to return the waiver, which must be at least 30 days after the request was sent, or 60 days after it was sent if it was sent outside any judicial district of the United States; and

(G) be sent by first-class mail or other reliable means.

(2) *Failure to Waive.* If a defendant located within the United States fails without good cause to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) the expenses later incurred in making service; and

(B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

(3) *Time to Answer After a Waiver.* A defendant who, before being served with process, timely returns a waiver need not serve an answer or otherwise respond to the pleading being served until 60 days after the request was sent, or 90 days after it was sent if it was sent outside any judicial district of the United States.

(4) *Results of Filing a Waiver.* When the plaintiff files an executed waiver, proof of service is not required and, except for the additional time in which a defendant may answer or otherwise respond as provided in Rule 4.2(d)(3), these rules apply as if a summons and the pleading being served had been served at the time of filing the waiver.

(5) *Jurisdiction and Venue Not Waived.* Waiving service of a summons does not waive any objection to personal jurisdiction or venue.

**(e) Service on a Nonresident Under the Nonresident Motorist Act.**

(1) *Generally.* In an action involving the operation of a motor vehicle in Arizona, a party may serve a nonresident--including a minor, insane, or incompetent person--as provided in A.R.S. § 28-2327.

(2) *Effective Date of Service.* If service is made under A.R.S. § 28-2327, service is complete 30 days after:

(A) the filing of the defendant's return receipt and the serving party's affidavit of compliance, as provided in A.R.S. § 28-2327(A)(1); or

(B) the filing of the officer's return of personal service, as provided in A.R.S. § 28-2327(A)(2).

(3) *Effect.* Within 30 days after completion of service, the defendant must answer in the same manner as if the defendant had been personally served with a summons in the county in which the action is pending.

**(f) Service by Publication.**

(1) *Generally.* A party may serve a person by publication only if:

(A) the last-known address of the person to be served is outside Arizona but:

(i) the serving party, despite reasonably diligent efforts, has not been able to ascertain the person's current address; or

(ii) the person has intentionally avoided service of process; and

(B) service by publication is the best means practicable in the circumstances for providing notice to the person of the action's commencement.

(2) *Procedure.*

(A) *Generally.* Service by publication is accomplished by publishing the summons and a statement describing how a copy of the pleading being served may be obtained at least once a week for 4 successive weeks in a newspaper published in the county where the action is pending.

(B) *Who May Serve.* Service by publication may be made by the serving party, its counsel, or anyone else authorized to serve process under Rule 4(d).

(C) *Alternative Newspapers.* If no newspaper is published in a county where publication is required, the serving party must publish the summons and statement in a newspaper in an adjoining county.

(D) *Effective Date of Service.* Service is complete 30 days after the summons and statement is first published in all newspapers where publication is required.

(3) *Mailing.* If the serving party knows the address of the person being served, it must, on or before the date of first publication, mail to the person the summons and a copy of the pleading being served, postage prepaid.

**(4) Return.**

(A) Required Affidavit. The party or person making service must prepare, sign and file an affidavit describing the manner and dates of the publication and mailing, and the circumstances warranting service by publication. If no mailing was made because the serving party did not know the current address of the person being served, the affidavit must state that fact.

(B) Accompanying Publication. A printed copy of the publication must accompany the affidavit.

(C) Effect. An affidavit that complies with these requirements constitutes prima facie evidence of compliance with the requirements for service by publication.

**(g) Service by Publication on an Unknown Heir in a Real Property Action.** An unknown heir of a decedent may be sued as an unknown heir and be served by publication in the county where the action is pending, using the procedures provided in Rule 4.2(f), if:

(1) the action in which the heir will be served is for the foreclosure of a mortgage on real property or is some other type of action involving title to real property; and

(2) the heir must be a party to the action to permit a complete determination of the action.

**(h) Serving a Corporation, Partnership or Other Unincorporated Association Located Outside Arizona but Within the United States.** If a corporation, partnership, or other unincorporated association is located outside Arizona but within the United States, it may be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and--if the agent is one authorized by statute and the statute so requires--by also mailing a copy of each to the defendant.

**(i) Serving an Individual in a Foreign Country.** Unless federal law provides otherwise, an individual--other than a minor, an incompetent person, or a person whose waiver has been filed under Rule 4.2(d)--may be served at a place not within any judicial district of the United States:

(1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as set forth by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request;

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the pleading being served to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(D) by other means not prohibited by international agreement, as the court orders.

**(j) Serving a Minor or Incompetent Person in a Foreign Country.** A party may serve a minor, a minor with a guardian or conservator, or an incompetent person who is located in a place not within any judicial district of the United States in the manner set forth in Rule 4.2(i)(2)(A) or (B) or by such means as the court may otherwise order.

**(k) Serving a Corporation, Partnership, or Other Incorporated Association in a Foreign Country.** Unless federal law provides otherwise or the defendant's waiver has been filed under Rule 4.2(d), a corporation, partnership, or other unincorporated association that has the legal capacity to be sued may be served at a place not within any judicial district of the United States by delivering a copy of the summons and pleading being served in the manner set forth in Rule 4.2(i) for serving an individual, except personal delivery under Rule 4.2(i)(2)(C)(i).

**(l) Serving a Foreign State.** A foreign state or one of its political subdivisions, agencies, or instrumentalities must be served in accordance with 28 U.S.C. § 1608.

**(m) Time to Serve an Answer After Service Outside Arizona.** Unless Rule 4.2(d)(3) applies, or the parties agree or the court orders otherwise, a person served outside Arizona under Rule 4.2 must serve a responsive pleading within 30 days after the completion of service. Service of a responsive pleading must be made in the same manner, and the served person is subject to the same consequences, as if the person had been personally served with a summons in the county in which the action is pending.

**Credits**

Added Sept. 2, 2016, effective Jan. 1, 2017. Amended Aug. 31, 2017, effective Jan. 1, 2018.

16 A. R. S. Rules Civ. Proc., Rule 4.2, AZ ST RCP Rule 4.2

State Court Rules are current with amendments received through 10/15/21. The Code of Judicial Administration is current with amendments received through 10/15/21.

## **How Do I Get A Summons If I Did Not File In Forma Pauperis?**

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At the time you file your complaint and pay the filing fee, you can obtain as many summonses as you need from the Clerk's Office or at the Court's website. You can also obtain the summonses later if you wish.

## **What Documents Do I Need To Serve On The Defendant(s)?**

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You are required to serve **BOTH** of the following documents on each defendant:

1. Complaint;
2. Summons, issued by the Clerk of the Court.

## **Is there a Time Limit for Serving the Complaint and Summons?**

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Yes. Rule 4(m) of the **FEDERAL RULES OF CIVIL PROCEDURE** requires that you **EITHER**:

- Obtain a waiver of service from each defendant, **OR**
- Serve each defendant within 90 days after the complaint is filed.

If you do not meet this deadline, the Court may dismiss all claims against any defendant who was not served. The dismissal would be "WITHOUT PREJUDICE," however, which means that you could file a new complaint in which you assert the same claims. If you did so, you would then have another 90 days to try to serve the complaint and summons.

## **How can I get the Defendant to Waive Service?**

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**WAIVING SERVICE** means agreeing to give up the right to service in person and instead accepting service by mail. If a defendant waives service, you will not have to go to the trouble and/or expense of serving that defendant. If the defendant agrees to waive service, you need the defendant to sign and send back to you a form called a "WAIVER OF SERVICE," which you then file with the Court.

You can ask for a waiver of service from any defendant **EXCEPT**:

- A minor or incompetent person in the United States **OR**
- The United States government, its agencies, corporations, officers or employees **OR**
- A foreign, state, or local government.

*To request waiver of service from a defendant, you will need two forms:*

1. A notice of a lawsuit and request to waive service of a summons **AND**
2. A waiver of the service of summons form.

You can obtain these forms from the Clerk's Office or download them from the Court's website: <http://www.azd.uscourts.gov/forms>

To request waiver of service, complete and send these two forms to the defendant by first-class mail along with a copy of the complaint, summons, and other required documents, plus an extra copy of the request to waive service and a self-addressed, stamped envelope. In choosing a due date on the form, you must give the defendant a reasonable amount of time to return the waiver of service—at least 30 days from the date the request is sent (or 60 days if the defendant is outside the United States).



If the defendant sends you back the signed waiver of service, you do not need to do anything else to serve that defendant. Just file the defendant's signed waiver of service form with the Court and save a copy for your files.

Review Rule 4(c) & (d) of the FEDERAL RULES OF CIVIL PROCEDURE regarding service and waiver of service.

### **What if I Requested a Waiver of Service and the Defendant Doesn't Send it Back?**

If the defendant does not return a signed waiver of service by the due date, you need to arrange to serve that defendant in one of the other ways approved by Rule 4 of the FEDERAL RULES OF CIVIL PROCEDURE. You may ask the Court to order the defendant to pay the costs you incurred serving that defendant.

### **How Do I Serve ...**

Rule 4(c)(2) provides that **YOU MAY NOT SERVE THE DEFENDANT YOURSELF**. You must have someone else who is at least 18 years old serve the defendant with the complaint and summons. You may hire a professional PROCESS SERVER or you can have a friend, family member, or any other person over 18 years old serve the complaint and summons for you.

This chart provides a quick reference to the different service rules that apply depending on the type of defendant:

<b>How do I serve...</b>		
<b>Individuals</b> See Rule 4(e) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> and Arizona law on service of process for individuals (16 A.R.S. Rules of Civil Procedure, Rule 4.1).	<b>A Business</b> If you serve a business in the United States: See Rule 4(h)(1) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> and Arizona Law on service of process for corporations, partnerships, and unincorporated associations (16 A.R.S. Rules of Civil Procedure, Rule 4.1(i) & (j)). <b>If you serve a business outside the United States:</b> See Rule 4(h)(2) of <u>FEDERAL RULES OF CIVIL PROCEDURE</u> .	<b>A Foreign Country</b> See 28 U.S.C. § 1608.
		<b>A State or Local Government</b> See Rule 4(j)(2) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> .
<b>Individuals in Foreign Countries</b> See Rule 4(f) and (g) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> .	<b>The United States, Its Agencies, Corporations, Officers, or Employees</b> See Rule 4(i) of <u>FEDERAL RULES OF CIVIL PROCEDURE</u> . If you also sue a United States officer or employee sued in an individual capacity for conduct in connection with the performance of duties on behalf of the United States, you must also serve the employee or officer in accordance with Rule 4(e), (f), or (g) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> .	<b>Minors or Incompetent Persons</b> See Rule 4(g) of the <u>FEDERAL RULES OF CIVIL PROCEDURE</u> and Arizona Law for service of process on minors and incompetent persons (16 A.R.S. Rules of Civil Procedure, Rule 4.1(e) & (g)).

Following are the rules for serving different kinds of defendants:

### **Individuals In the United States**

Under Rule 4(e) of the FEDERAL RULES OF CIVIL PROCEDURE, there are several approved ways to serve the complaint, summons, and related documents on an individual in the United States:

- Hand delivery to the defendant; OR
- Hand delivery to another responsible person who lives at the defendant's home; OR
- Hand delivery to an agent authorized by the defendant or by law to receive service of process for the defendant; OR
- Service by any other method approved by Arizona law or the laws of the state where the defendant is served. Arizona law on service of process can be found in the Arizona Rules of Civil Procedure for the Superior Courts of Arizona beginning at 16 A.R.S. Rules of Civil Procedure, Rule 4.1. Arizona law generally allows service by:
  - Hand delivery to the defendant; OR
  - Leaving copies of the summons and of the pleading at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein (see 16 A.R.S. Rules of Civil Procedure, Rule 4.1(d)); OR
  - Delivering a copy of the summons and of the pleading to an agent authorized by appointment or by law to receive service of process (see 16 A.R.S. Rules of Civil Procedure, Rule 4.1(d)); OR
  - Service by publication in a newspaper. Where the person to be served is one whose residence is unknown to the party seeking service but whose last known residence address was within the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of the institution of the action, then service may be made by publication in accordance with the entire requirements of 16 A.R.S. Rules of Civil Procedure, Rule 4.1(l) (see 16 A.R.S. Rules of Civil Procedure, Rule 4.1(l)); OR
  - Alternative or Substituted Service. If service by one of the means set forth in the preceding methods proves impracticable, then service may be accomplished in such manner, other than by publication, as the court, upon motion and without notice, may direct; (see 16 A.R.S. Rules of Civil Procedure, Rule 4.1(k)).
  - Service by Publication; Unknown Heirs in Real Property Actions. When in an action for the foreclosure of a mortgage on real property or in any action involving title to real property, it is necessary for a complete determination of the action that the unknown heirs of a deceased person be made parties, they may be sued as the unknown heirs of the decedent, and service of a summons may be made on them by publication in the county where the action is pending, as provided in 16 A.R.S. Rules of Civil Procedure, Rule 4.1(l). (See 16 A.R.S. Rules of Civil Procedure, Rule 4.1(m)).

### **Individuals in foreign countries:**

Under Rule 4(f) of the FEDERAL RULES OF CIVIL PROCEDURE, an individual in a foreign country may be served by "any internationally agreed means that is reasonably calculated to

- Hand it to the person; **OR**
- Leave it at the person's office with a clerk or other person in charge, or, if no one is in charge, leave it in a conspicuous place in the office; **OR**
- If the person has no office or the office is closed, leave it at the person's home with an adult who lives there; **OR**
- Mail a copy to the person's last known address; **OR**
- If the person you want to serve has no known address, you may leave a copy with the clerk of the court; **OR**
- Send it by e-mail if the person has consented in writing (but note that electronic service is not effective if you learn that the e-mail did not reach the person to be served); **OR**
- Deliver a copy by any other method that the person you are serving has consented to in writing.

For every document that you serve on other parties, you need to file a CERTIFICATE OF SERVICE. See LRCiv. 5.2.

Please note: If you have received permission to file documents electronically, no certificate of service is required for documents that are filed electronically after service of the complaint. Those documents will be served electronically.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**