

1 ENGROSSED HOUSE
2 BILL NO. 3218

By: West (Kevin) of the House

3 and

4 Weaver of the Senate
5
6

7 An Act relating to civil procedure; amending 12 O.S.
8 2021, Section 2004, as amended by Section 1, Chapter
9 59, O.S.L. 2022 (12 O.S. Supp. 2023, Section 2004),
10 which relates to service of process; providing
11 service of process by electronic means; providing
12 provisions for return when serving by electronic
13 means; and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 12 O.S. 2021, Section 2004, as
16 amended by Section 1, Chapter 59, O.S.L. 2022 (12 O.S. Supp. 2023,
17 Section 2004), is amended to read as follows:

18 Section 2004.

19 PROCESS

20 A. SUMMONS: ISSUANCE. Upon filing of the petition, the clerk
21 shall forthwith issue a summons. Upon request of the plaintiff
22 separate or additional summons shall issue against any defendants.

23 B. SUMMONS: FORM.

24 1. The summons shall be signed by the clerk, be under the seal
of the court, contain the name of the court and the names of the

1 parties, be directed to the defendant, state the name and address of
2 the plaintiff's attorney, if any, otherwise, the plaintiff's
3 address, and the time within which these rules require the defendant
4 to appear and defend, and shall notify the defendant that in case of
5 failure to appear, judgment by default will be rendered against the
6 defendant for the relief demanded in the petition.

7 2. A judgment by default shall not be different in kind from or
8 exceed in amount that prayed for in either the demand for judgment
9 or in cases not sounding in contract in a notice which has been
10 given the party against whom default judgment is sought. Except as
11 to a party against whom a judgment is entered by default, every
12 final judgment shall grant the relief to which the party in whose
13 favor it is rendered is entitled, even if the party has not demanded
14 such relief in his or her pleadings.

15 C. BY WHOM SERVED: PERSON TO BE SERVED.

16 1. SERVICE BY PERSONAL DELIVERY.

17 a. At the election of the plaintiff, process, other than
18 a subpoena, shall be served by a sheriff or deputy
19 sheriff, a person licensed to make service of process
20 in civil cases or a person specially appointed for
21 that purpose. The court shall freely make special
22 appointments to serve all process, other than a
23 subpoena, under this paragraph.

24

1 b. A summons to be served by the sheriff or deputy
2 sheriff shall be delivered to the sheriff by the court
3 clerk or an attorney of record for the plaintiff.
4 When a summons, subpoena or other process is to be
5 served by the sheriff or deputy sheriff of another
6 county, the court clerk shall mail it, together with
7 the voucher of the court clerk for the fees collected
8 for the service, to the sheriff of that county. The
9 sheriff shall deposit the voucher in the Sheriff's
10 Service Fee Account created pursuant to Section 514.1
11 of Title 19 of the Oklahoma Statutes. The sheriff or
12 deputy sheriff shall serve the process in the manner
13 that other process issued out of the court of the
14 sheriff's own county is served. A summons to be
15 served by a person licensed to make service of process
16 in civil cases or by a person specially appointed for
17 that purpose shall be delivered by an attorney of
18 record for the plaintiff to such person.

19 c. Service shall be made as follows:

20 (1) upon an individual other than an infant who is
21 less than fifteen (15) years of age or an
22 incompetent person, by delivering a copy of the
23 summons and of the petition personally or by
24 leaving copies thereof at the person's dwelling

1 house or usual place of abode with some person
2 then residing therein who is fifteen (15) years
3 of age or older, by delivering a copy of the
4 summons and of the petition to an agent
5 authorized by appointment or by law to receive
6 service of process, or by delivering a copy of
7 the summons and of the petition personally or by
8 leaving copies thereof at an agreed meeting place
9 with some person then residing at the person's
10 dwelling house or usual place of abode,

11 (2) upon an infant who is less than fifteen (15)
12 years of age, by serving the summons and petition
13 personally and upon either of the infant's
14 parents or guardian, or if they cannot be found,
15 then upon the person having the care or control
16 of the infant or with whom the infant lives; and
17 upon an incompetent person by serving the summons
18 and petition personally and upon the incompetent
19 person's guardian,

20 (3) upon a domestic or foreign corporation or upon a
21 partnership or other unincorporated association
22 which is subject to suit under a common name, by
23 delivering a copy of the summons and of the
24 petition to an officer, a managing or general

1 agent or to any other agent authorized by
2 appointment or by law to receive service of
3 process and, if the agent is one authorized by
4 statute to receive service and the statute so
5 requires, by also mailing a copy to the
6 defendant,

7 (4) upon the United States or an officer or agency
8 thereof in the manner specified by Federal Rule
9 of Civil Procedure 4,

10 (5) upon a state, county, school district, public
11 trust or municipal corporation or other
12 governmental organization thereof subject to
13 suit, by delivering a copy of the summons and of
14 the petition to the officer or individual
15 designated by specific statute; however, if there
16 is no statute, then upon the chief executive
17 officer or a clerk, secretary or other official
18 whose duty it is to maintain the official records
19 of the organization,

20 (6) upon an inmate incarcerated in an institution
21 under the jurisdiction and control of the
22 Department of Corrections, by delivering a copy
23 of the summons and of the petition to the warden
24 or superintendent or the designee of the warden

1 or superintendent of the institution where the
2 inmate is housed. It shall be the duty of the
3 receiving warden or superintendent or a designee
4 to promptly deliver the summons and petition to
5 the inmate named therein. The warden or
6 superintendent or his or her designee shall
7 reject service of process for any inmate who is
8 not actually present in the institution, and
9 (7) upon an inmate incarcerated in a county jail or
10 detention center under the jurisdiction and
11 control of the county sheriff or the jail trust
12 of the county, by delivering a copy of the
13 summons and of the petition to the jail or
14 detention center administrator or the designee of
15 such administrator of the jail or detention
16 center where the inmate is housed. It shall be
17 the duty of the receiving jail or detention
18 center administrator or designee to promptly
19 deliver the summons and petition to the inmate
20 named therein. The jail or detention center
21 administrator or designee shall reject service of
22 process for any inmate who is not actually
23 present in the jail or detention center.

24 2. SERVICE BY MAIL.

1 a. At the election of the plaintiff, a summons and
2 petition may be served by mail by the plaintiff's
3 attorney, any person authorized to serve process
4 pursuant to subparagraph a of paragraph 1 of this
5 subsection or by the court clerk upon a defendant of
6 any class referred to in division (1), (3) or (5) of
7 subparagraph c of paragraph 1 of this subsection.
8 Service by mail shall be effective on the date of
9 receipt or if refused, on the date of refusal of the
10 summons and petition by the defendant.

11 b. Service by mail shall be accomplished by mailing a
12 copy of the summons and petition by certified mail,
13 return receipt requested and delivery restricted to
14 the addressee. When there is more than one defendant,
15 the summons and a copy of the petition or order shall
16 be mailed in a separate envelope to each defendant.
17 If the summons is to be served by mail by the court
18 clerk, the court clerk shall enclose the summons and a
19 copy of the petition or order of the court to be
20 served in an envelope, prepared by the plaintiff,
21 addressed to the defendant, or to the resident service
22 agent if one has been appointed. The court clerk
23 shall prepay the postage and mail the envelope to the
24 defendant, or service agent, by certified mail, return

1 receipt requested and delivery restricted to the
2 addressee. The return receipt shall be prepared by
3 the plaintiff. Service by mail to a garnishee shall
4 be accomplished by mailing a copy of the summons and
5 notice by certified mail, return receipt requested,
6 and at the election of the judgment creditor by
7 restricted delivery, to the addressee.

8 c. Service by mail shall not be the basis for the entry
9 of a default or a judgment by default unless the
10 record contains a return receipt showing acceptance by
11 the defendant or a returned envelope showing refusal
12 of the process by the defendant. Acceptance or
13 refusal of service by mail by a person who is fifteen
14 (15) years of age or older who resides at the
15 defendant's dwelling house or usual place of abode
16 shall constitute acceptance or refusal by the party
17 addressed. In the case of an entity described in
18 division (3) of subparagraph c of paragraph 1 of this
19 subsection, acceptance or refusal by any officer or by
20 any employee of the registered office or principal
21 place of business who is authorized to or who
22 regularly receives certified mail shall constitute
23 acceptance or refusal by the party addressed. A
24 return receipt signed at such registered office or

1 principal place of business shall be presumed to have
2 been signed by an employee authorized to receive
3 certified mail. In the case of a state municipal
4 corporation, or other governmental organization
5 thereof subject to suit, acceptance or refusal by an
6 employee of the office of the officials specified in
7 division (5) of subparagraph c of paragraph 1 of this
8 subsection who is authorized to or who regularly
9 receives certified mail shall constitute acceptance or
10 refusal by the party addressed. If delivery of the
11 process is refused, upon the receipt of notice of such
12 refusal and at least ten (10) days before applying for
13 entry of default, the person elected by plaintiff
14 pursuant to subparagraph a of this paragraph to serve
15 the process shall mail to the defendant by first-class
16 mail a copy of the summons and petition and a notice
17 prepared by the plaintiff that despite such refusal
18 the case will proceed and that judgment by default
19 will be rendered against him unless he appears to
20 defend the suit. Any default or judgment by default
21 shall be set aside upon motion of the defendant in the
22 manner prescribed in Section 1031.1 of this title, or
23 upon petition of the defendant in the manner
24 prescribed in Section 1033 of this title if the

1 defendant demonstrates to the court that the return
2 receipt was signed or delivery was refused by an
3 unauthorized person. A petition shall be filed within
4 one (1) year after the defendant has notice of the
5 default or judgment by default but in no event more
6 than two (2) years after the filing of the judgment.

7 3. SERVICE BY ELECTRONIC MEANS.

8 a. Upon a judge's order or if a copy of the summons and
9 petition cannot be personally delivered after three
10 attempts to the named defendant, as specified in
11 paragraph 1 of this subsection, a summons may be
12 served by electronic means, and by thereafter mailing
13 a copy of the summons and of the complaint by
14 certified mail, postage prepaid to the named defendant
15 at the last-known address. Service of a summons in
16 this manner is deemed complete on the day of receipt
17 of the electronic transmission and mailing. A summons
18 and petition may be served by electronic means by the
19 plaintiff's attorney, any person authorized to serve
20 process pursuant to subparagraph a of paragraph 1 of
21 this subsection upon a defendant of any class referred
22 to in division (1), (3), or (5) of subparagraph c of
23 paragraph 1 of this subsection. Service by electronic
24 means shall be effective on the date of receipt or, if

1 refused, on the date of refusal of the summons and
2 petition by the defendant.

3 b. Service by electronic means shall be accomplished by
4 sending an electronic notification to the named
5 defendant via email. The electronic notification
6 shall advise the named defendant of the nature of the
7 communication and shall include a hyperlink to a
8 secure application that tracks the email and provides
9 evidence of whether the email notification was bounced
10 back, returned, received, opened, and whether a copy
11 of the summons was viewed or downloaded by the named
12 defendant. The secure application shall give the
13 named defendant the option of accepting the service by
14 electronically signing an acknowledgement of receipt
15 in the application or the option of declining the
16 service. When there is more than one defendant, the
17 summons and a copy of the petition or order shall be
18 transmitted in a separate email notification to each
19 defendant. Service by email to a garnishee shall be
20 accomplished by transmitting via a secure application
21 a copy of the summons and notice, return receipt
22 requested, and at the election of the judgment
23 creditor, to the addressee.

1 c. Service by electronic means shall not be the basis for
2 the entry of a default or a judgment by default unless
3 the record contains evidence showing acceptance by the
4 defendant or a returned email showing refusal of the
5 process by the defendant. Acceptance or refusal of
6 service by electronic means by a person who is fifteen
7 (15) years of age or older who resides at the
8 defendant's dwelling house or usual place of abode
9 shall constitute acceptance or refusal by the party
10 addressed. In the case of an entity described in
11 division (3) of subparagraph c of paragraph 1 of this
12 subsection, acceptance or refusal by any officer or by
13 any employee of the registered office or principal
14 place of business who is authorized to or who
15 regularly receives emails shall constitute acceptance
16 or refusal by the party addressed. A return receipt
17 email sent at such registered office or principal
18 place of business shall be presumed to have been sent
19 by an employee authorized to email. In the case of a
20 state municipal corporation, or other governmental
21 organization thereof subject to suit, acceptance or
22 refusal by an employee of the office of the officials
23 specified in division (5) of subparagraph c of
24 paragraph 1 of this subsection who is authorized to or

1 who regularly receives email shall constitute
2 acceptance or refusal by the party addressed. If
3 delivery of the process is refused, upon the receipt
4 of notice of such refusal and at least ten (10) days
5 before applying for entry of default, the person
6 elected by the plaintiff pursuant to subparagraph a of
7 this paragraph to serve the process shall email to the
8 defendant a copy of the summons and petition and a
9 notice prepared by the plaintiff that despite such
10 refusal the case will proceed and that judgment by
11 default will be rendered against him or her unless he
12 or she appears to defend the suit. Any default or
13 judgment by default shall be set aside upon motion of
14 the defendant in the manner prescribed in Section
15 1031.1 of this title, or upon petition of the
16 defendant in the manner prescribed in Section 1033 of
17 this title if the defendant demonstrates to the court
18 that the return receipt email was sent or delivery was
19 refused by an unauthorized person. A petition shall
20 be filed within one (1) year after the defendant has
21 notice of the default or judgment by default but in no
22 event more than two (2) years after the filing of the
23 judgment.

24 4. SERVICE BY PUBLICATION.

1 a. Service of summons upon a named defendant may be made
2 by publication when it is stated in the petition,
3 verified by the plaintiff or the plaintiff's attorney
4 or in a separate affidavit by the plaintiff or the
5 plaintiff's attorney filed with the court, that with
6 due diligence service cannot be made upon the
7 defendant by any other method.

8 b. Service of summons upon the unknown successors of a
9 named defendant, a named decedent or a dissolved
10 partnership, corporation or other association may be
11 made by publication when it is stated in a petition,
12 verified by the plaintiff or the plaintiff's attorney
13 or in a separate affidavit by the plaintiff or the
14 plaintiff's attorney filed with the court, that the
15 person who verified the petition or the affidavit does
16 not know and with due diligence cannot ascertain the
17 following:

18 (1) whether a person named as defendant is living or
19 dead, and, if dead, the names or whereabouts of
20 the person's successors, if any,

21 (2) the names or whereabouts of the unknown
22 successors, if any, of a named decedent,

23 (3) whether a partnership, corporation or other
24 association named as a defendant continues to

1 have legal existence or not; or the names or
2 whereabouts of its officers or successors,

3 (4) whether any person designated in a record as a
4 trustee continues to be the trustee; or the names
5 or whereabouts of the successors of the trustee,
6 or

7 (5) the names or whereabouts of the owners or holders
8 of special assessment or improvement bonds, or
9 any other bonds, sewer warrants or tax bills.

10 c. Service pursuant to this paragraph shall be made by
11 publication of a notice, signed by the court clerk,
12 one (1) day a week for three (3) consecutive weeks in
13 a newspaper authorized by law to publish legal notices
14 which is published in the county where the petition is
15 filed. If no newspaper authorized by law to publish
16 legal notices is published in such county, the notice
17 shall be published in some such newspaper of general
18 circulation which is published in an adjoining county.
19 All named parties and their unknown successors who may
20 be served by publication may be included in one
21 notice. The notice shall state the court in which the
22 petition is filed and the names of the plaintiff and
23 the parties served by publication, and shall designate
24 the parties whose unknown successors are being served.

1 The notice shall also state that the named defendants
2 and their unknown successors have been sued and must
3 answer the petition on or before a time to be stated
4 (which shall not be less than forty-one (41) days from
5 the date of the first publication), or judgment, the
6 nature of which shall be stated, will be rendered
7 accordingly. If jurisdiction of the court is based on
8 property, any real property subject to the
9 jurisdiction of the court and any property or debts to
10 be attached or garnished must be described in the
11 notice.

12 (1) When the recovery of money is sought, it is not
13 necessary for the publication notice to state the
14 separate items involved, but the total amount
15 that is claimed must be stated. When interest is
16 claimed, it is not necessary to state the rate of
17 interest, the date from which interest is claimed
18 or that interest is claimed until the obligation
19 is paid.

20 (2) It is not necessary for the publication notice to
21 state that the judgment will include recovery of
22 costs in order for a judgment following the
23 publication notice to include costs of suit.
24

1 (3) In an action to quiet title to real property, it
2 is not necessary for the publication notice to
3 state the nature of the claim or interest of
4 either party, and in describing the nature of the
5 judgment that will be rendered should the
6 defendant fail to answer, it is sufficient to
7 state that a decree quieting plaintiff's title to
8 the described property will be entered. It is
9 not necessary to state that a decree forever
10 barring the defendant from asserting any interest
11 in or to the property is sought or will be
12 entered if the defendant does not answer.

13 (4) In an action to foreclose a mortgage, it is
14 sufficient that the publication notice state that
15 if the defendant does not answer, the defendant's
16 interest in the property will be foreclosed. It
17 is not necessary to state that a judgment forever
18 barring the defendant from all right, title,
19 interest, estate, property and equity of
20 redemption in or to the property or any part
21 thereof is requested or will be entered if the
22 defendant does not answer.

23 d. Service by publication is complete when made in the
24 manner and for the time prescribed in subparagraph c

1 of this paragraph. Service by publication shall be
2 proved by the affidavit of any person having knowledge
3 of the publication. No default judgment may be
4 entered on such service until proof of service by
5 publication is filed with and approved by the court.

6 e. Before entry of a default judgment or order against a
7 party who has been served solely by publication under
8 this paragraph, the court shall conduct an inquiry to
9 determine whether the plaintiff, or someone acting in
10 behalf of the plaintiff, made a distinct and
11 meaningful search of all reasonably available sources
12 to ascertain the whereabouts of any named parties who
13 have been served solely by publication under this
14 paragraph. Before entry of a default judgment or
15 order against the unknown successors of a named
16 defendant, a named decedent or a dissolved
17 partnership, corporation or association, the court
18 shall conduct an inquiry to ascertain whether the
19 requirements described in subparagraph b of this
20 paragraph have been satisfied.

21 f. A party against whom a default judgment or order has
22 been rendered, without other service than by
23 publication in a newspaper, may, at any time within
24 three (3) years after the filing of the judgment or

1 order, have the judgment or order set aside in the
2 manner prescribed in Sections 1031.1 and 1033 of this
3 title. Before the judgment or order is set aside, the
4 applicant shall notify the adverse party of the
5 intention to make an application and shall file a full
6 answer to the petition, pay all costs if the court
7 requires them to be paid and satisfy the court by
8 affidavit or other evidence that during the pendency
9 of the action the applicant had no actual notice
10 thereof in time to appear in court and make a defense.
11 The title to any property which is the subject of and
12 which passes to a purchaser in good faith by or in
13 consequence of the judgment or order to be opened
14 shall not be affected by any proceedings under this
15 subparagraph. Nor shall proceedings under this
16 subparagraph affect the title of any property sold
17 before judgment under an attachment. The adverse
18 party, on the hearing of an application to open a
19 judgment or order as provided by this subparagraph,
20 shall be allowed to present evidence to show that
21 during the pendency of the action the applicant had
22 notice thereof in time to appear in court and make a
23 defense.

1 g. The term "successors" includes all heirs, executors,
2 administrators, devisees, trustees and assigns,
3 immediate and remote, of a named individual,
4 partnership, corporation or association.

5 h. Service outside of the state does not give the court
6 in personal jurisdiction over a defendant who is not
7 subject to the jurisdiction of the courts of this
8 state or who has not, either in person or through an
9 agent, submitted to the jurisdiction of the courts of
10 this state.

11 ~~4.~~ 5. SERVICE ON THE SECRETARY OF STATE.

12 a. Service of process on a domestic or foreign
13 corporation may be made by serving the Secretary of
14 State as the corporation's agent, if:

15 (1) there is no registered agent for the corporation
16 listed in the records of the Secretary of State,
17 or

18 (2) neither the registered agent nor an officer of
19 the corporation could be found at the registered
20 office of the corporation, when service of
21 process was attempted.

22 b. Before resorting to service on the Secretary of State
23 the plaintiff must have attempted service either in
24 person or by mail on the corporation at:

- 1 (1) the corporation's last-known address shown on the
2 records of the Franchise Tax Division of the
3 Oklahoma Tax Commission, if any is listed there,
4 and
5 (2) the corporation's last-known address shown on the
6 records of the Secretary of State, if any is
7 listed there, and
8 (3) the corporation's last address known to the
9 plaintiff.

10 If any of these addresses are the same, the plaintiff
11 is not required to attempt service more than once at
12 any address. The plaintiff shall furnish the
13 Secretary of State with a certified copy of the return
14 or returns showing the attempted service.

15 c. Service on the Secretary of State shall be made by
16 filing two (2) copies of the summons and petition with
17 the Secretary of State, notifying the Secretary of
18 State that service is being made pursuant to the
19 provisions of this paragraph, and paying the Secretary
20 of State the fee prescribed in paragraph 7 of
21 subsection A of Section 1142 of Title 18 of the
22 Oklahoma Statutes, which fee shall be taxed as part of
23 the costs of the action, suit or proceeding if the
24 plaintiff shall prevail therein. If a registered

1 agent for the corporation is listed in the records of
2 the Secretary of State, the plaintiff must also
3 furnish a certified copy of the return showing that
4 service on the registered agent has been attempted
5 either in person or by mail, and that neither the
6 registered agent nor an officer of the corporation
7 could be found at the registered office of the
8 corporation.

9 d. Within three (3) working days after receiving the
10 summons and petition, the Secretary of State shall
11 send notice by letter, certified mail, return receipt
12 requested, directed to the corporation at its
13 registered office or the last-known address found in
14 the office of the Secretary of State, or if no address
15 is found there, to the corporation's last-known
16 address provided by the plaintiff. The notice shall
17 enclose a copy of the summons and petition and any
18 other papers served upon the Secretary of State. The
19 corporation shall not be required to serve its answer
20 until forty (40) days after service of the summons and
21 petition on the Secretary of State.

22 e. Before entry of a default judgment or order against a
23 corporation that has been served by serving the
24 Secretary of State as its agent under this paragraph,

1 the court shall determine whether the requirements of
2 this paragraph have been satisfied. A default
3 judgment or order against a corporation that has been
4 served only by service on the Secretary of State may
5 be set aside upon motion of the corporation in the
6 manner prescribed in Section 1031.1 of this title, or
7 upon petition of the corporation in the manner
8 prescribed in Section 1033 of this title, if the
9 corporation demonstrates to the court that it had no
10 actual notice of the action in time to appear and make
11 its defense. A petition shall be filed within one (1)
12 year after the corporation has notice of the default
13 judgment or order but in no event more than two (2)
14 years after the filing of the default judgment or
15 order.

16 f. The Secretary of State shall maintain an alphabetical
17 record of service setting forth the name of the
18 plaintiff and defendant, the title, docket number and
19 nature of the proceeding in which the process has been
20 served upon the defendant, the fact that service has
21 been effected pursuant to the provisions of this
22 paragraph, the return date thereof and the date when
23 the service was made. The Secretary of State shall
24 not be required to retain this information for a

1 period longer than five (5) years from receipt of the
2 service of process.

3 g. The provisions of this paragraph shall not apply to a
4 foreign insurance company doing business in this
5 state.

6 ~~5.~~ 6. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back
7 of the summons or the voluntary appearance of a defendant is
8 equivalent to service.

9 ~~6.~~ 7. SERVICE BY OTHER METHODS. If service cannot be made by
10 personal delivery ~~or~~, by mail, or by secured electronic means, a
11 defendant of any class referred to in division (1) or (3) of
12 subparagraph c of paragraph 1 of this subsection may be served as
13 provided by court order in a manner which is reasonably calculated
14 to give the defendant actual notice of the proceedings and an
15 opportunity to be heard and upon filing an affidavit by the
16 plaintiff or plaintiff's attorney that with due diligence service
17 cannot otherwise be made upon the defendant.

18 ~~7.~~ 8. NO SERVICE BY PRISONER. No prisoner in any jail,
19 Department of Corrections facility, private prison, or parolee or
20 probationer under supervision of the Department of Corrections shall
21 be appointed by any court to serve process on any defendant, party
22 or witness.

23 D. SUMMONS AND PETITION. The summons and petition shall be
24 served together. The plaintiff shall furnish the person making

1 service with such copies as are necessary. The failure to serve a
2 copy of the petition with the summons is not a ground for dismissal
3 for insufficiency of service of process, but on motion of the party
4 served, the court may extend the time to answer or otherwise plead.
5 If a summons and petition are served by personal delivery, the
6 person serving the summons shall state on the copy that is left with
7 the person served the date that service is made. This provision is
8 not jurisdictional, but if the failure to comply with it prejudices
9 the party served, the court, on motion of the party served, may
10 extend the time to answer or otherwise plead.

11 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

12 1. Service of the summons and petition may be made anywhere
13 within this state in the manner provided by subsection C of this
14 section.

15 2. When the exercise of jurisdiction is authorized by
16 subsection F of this section, service of the summons and petition
17 may be made outside this state:

- 18 a. by personal delivery in the manner prescribed for
19 service within this state,
- 20 b. in the manner prescribed by the law of the place in
21 which the service is made for service in that place in
22 an action in any of its courts of general
23 jurisdiction,

24

1 c. in the manner prescribed by paragraph 2 of subsection
2 C of this section,

3 d. as directed by the foreign authority in response to a
4 letter rogatory,

5 e. in the manner prescribed by paragraph ~~3~~ 4 of
6 subsection C of this section only when permitted by
7 subparagraphs a and b of paragraph ~~3~~ 4 of subsection C
8 of this section, or

9 f. as directed by the court.

10 3. Proof of service outside this state may be made in the
11 manner prescribed by subsection G of this section, the order
12 pursuant to which the service is made, or the law of the place in
13 which the service is made for proof of service in an action in any
14 of its courts of general jurisdiction.

15 4. Service outside this state may be made by an individual
16 permitted to make service of process under the law of this state or
17 under the law of the place in which the service is made or who is
18 designated to make service by a court of this state.

19 5. When subsection C of this section requires that in order to
20 effect service one or more designated individuals be served, service
21 outside this state under this section must be made upon the
22 designated individual or individuals.

23 6. a. A court of this state may order service upon any
24 person who is domiciled or can be found within this

1 state of any document issued in connection with a
2 proceeding in a tribunal outside this state. The
3 order may be made upon application of any interested
4 person or in response to a letter rogatory issued by a
5 tribunal outside this state and shall direct the
6 manner of service.

7 b. Service in connection with a proceeding in a tribunal
8 outside this state may be made within this state
9 without an order of court.

10 c. Service under this paragraph does not, of itself,
11 require the recognition or enforcement of an order,
12 judgment or decree rendered outside this state.

13 F. ASSERTION OF JURISDICTION. A court of this state may
14 exercise jurisdiction on any basis consistent with the Constitution
15 of this state and the Constitution of the United States.

16 G. RETURN.

17 1. The person serving the process shall make proof of service
18 thereof to the court promptly and in any event within the time
19 during which the person served must respond to the process, but the
20 failure to make proof of service does not affect the validity of the
21 service.

22 2. When process has been served by a sheriff or deputy sheriff
23 and return thereof is filed in the office of the court clerk, a copy
24 of the return shall be sent by the court clerk to the plaintiff's

1 attorney within three (3) days after the return is filed. If
2 service is made by a person other than a sheriff or deputy sheriff,
3 the licensed process server shall make affidavit thereof. The
4 return shall set forth the county of issuance, the name of the
5 person served and the date, place and method of service.

6 3. If service was by mail, the person mailing the summons and
7 petition shall endorse on the copy of the summons or order of the
8 court that is filed in the action the date and place of mailing and
9 the date when service was receipted or service was rejected, and
10 shall attach to the copy of the summons or order a copy of the
11 return receipt or returned envelope, if and when received, showing
12 whether the mailing was accepted, refused or otherwise returned. If
13 the mailing was refused, the return shall also show the date and
14 place of any subsequent mailing pursuant to paragraph 2 of
15 subsection C of this section. When the summons and petition are
16 mailed by the court clerk, the court clerk shall notify the
17 plaintiff's attorney within three (3) days after receipt of the
18 returned card or envelope showing that the card or envelope has been
19 received.

20 4. If service was by secured electronic means, the person
21 emailing the summons and petition shall endorse on the copy of the
22 summons or order of the court that is filed in the action the date
23 and place of mailing and the date when service was receipted or
24 service was rejected, and shall attach to the copy of the summons or

1 order a copy of the return receipt email, if and when received,
2 showing whether the email was accepted, refused or otherwise
3 returned. If the emailing was refused, the return shall also show
4 the date and place of any subsequent emailing pursuant to paragraph
5 3 of subsection C of this section. When the summons and petition
6 are emailed by the court clerk, the court clerk shall notify the
7 plaintiff's attorney within three (3) days after receipt of the
8 return email was received.

9 H. AMENDMENT. At any time in its discretion and upon such
10 terms as it deems just, the court may allow any process or proof of
11 service thereof to be amended, unless it clearly appears that
12 material prejudice would result to the substantial rights of the
13 party against whom the process issued.

14 I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is
15 not made upon a defendant within one hundred eighty (180) days after
16 the filing of the petition and the plaintiff has not shown good
17 cause why such service was not made within that period, the action
18 shall be deemed dismissed as to that defendant without prejudice and
19 Section 100 of this title shall be applicable to any refileing of the
20 action. Upon application of a defendant not timely served, the
21 court shall enter an order dismissing the action as to that
22 defendant. The court shall enter a dismissal order of an action
23 within two hundred (200) days after the filing of the action in
24 which no service has been made on any defendant as required pursuant

