

# How to Serve Your Small Claims Papers

The Defendant **must** be served (given) a copy of all the papers you file in Small Claims Court.

If there is more than one Defendant in your case, each one must be served separately – even if they are husband and wife.

In most cases the deadline to serve and file your *Proof of Service* is **30 days**. **Some courts allow** up to **90** days after you file your *Claim*. Ask the clerk about your deadline.

## Follow these steps:

- **1. Fill out the *Proof of Service* form.** You can get it from the Court Clerk or online at: [www.courtselfhelp.idaho.gov](http://www.courtselfhelp.idaho.gov). (Click on *Forms*, then *Small Claims*.)
- **2. Have someone 18 or older – not you – serve the Defendant.** The Defendant can be served by **mail** or **personal** delivery. Read below to decide which is better for your case.
  - For U.S. **mail** service
    - If you pay a fee, the Clerk can have the Defendant served by certified mail, return receipt. Mail service can be less expensive than personal service.
    - **Warning!** If the Defendant refuses to sign the return receipt or if someone who is not the Defendant signs, you will have to serve the Defendant again, using personal service. If this happens, the Clerk will notify you.
  - For **personal** service, choose **1** of these options:
    - Pay the **Sheriff's office** (or the Marshal's office for some counties) to serve the papers. You must tell them exactly where to find the Defendant. The Sheriff or Marshal will give you the *Proof of Service*.

In some counties, you pay the Court Clerk and the Sheriff or Marshal gives the *Proof of Service* to the Clerk. Ask the Clerk how it works in your county.

- Pay a professional **process server**. You can find one online or in any phone book. You must:
  - Give the server a copy of your court forms.
  - Explain exactly where to find the Defendant.
  - Ask the server to fill out a *Proof of Service* form. (Some process servers file the *Proof of Service* with the Clerk. Others will return it to you for you to file.)

If you do not know where the Defendant can be found, some process servers will investigate for you, for a fee.

- **Ask someone 18 or older** – not **you** or anyone else involved in this case – to personally give each Defendant a copy of your court papers.

## □ **File the *Proof of Service***

After serving, the server will fill out the server's part of the *Proof of Service* form and return it to you. Then you must file the *Proof of Service* with the Clerk. Or you can file it at your trial or with your *Affidavit*.

If you miss your deadline to file the *Proof of Service*, or if you serve incorrectly, you can file your claim again. If you file again within 6 months of filing your first claim, you won't have to pay another filing fee.

Last updated on February 24, 2017.

Files

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