Personal Service

Service is a formal way of giving copies of all court documents to all parties in a case. It is a very important step at all stages of lawsuit because it notifies the parties of the existence of a court case, and of all actions taken in the case. A case cannot move forward until documents are served.

Templates and Forms

- Proof of Personal Service (POS-020) (https://www.courts.ca.gov/documents/pos020.pdf)
- Declaration of Diligence (Personal Service) Template – DOCX (https://saclaw.org/sbs-personal-service-declaration-of-diligence-1/)

You cannot serve your own documents.
Documents must be served by someone over 18 who is not a party to the case.

Common Questions

Who Should Be Served?

It is essential that the proper person be served. Your case cannot move forward until the proper parties have been served. The person who needs to be served will depend on who is being sued.

Related Step-by-Step Guides
Finding People and Businesses (https://www.saclaw.org/resource_library/finding-people-and-businesses/)
Serving Documents by Mail (https://www.saclaw.org/resource_library/serving-documents-by-mail/)

Related Video
How to Serve Court Papers (https://www.saclaw.org/video-library/personal-service-of-court-papers-how-to/)

- When starting a lawsuit against an individual, serve the individual.
- When starting a lawsuit against an unincorporated business, such as a sole proprietorship or general partnership, serve the owner or one of the partners.

- When starting a lawsuit against a corporation or LLC, serve the Agent for Service of Process. All corporations and LLCs are required to register with the California Secretary of State, and designate a person to accept l egal service on behalf of the business. This information is available from a database on the Secretary of State's website (https://bizfileonline.sos.ca.gov/) .
- When serving local government agencies, serve the clerk, secretary or other head of the agency. When serving a state agency, serve the Attorney General's office (or CalTrans directly, if suing that agency).
- Throughout the case, if the party retains an attorney, documents should be served on the attorney, rather than the party.

For more detail about determining the appropriate person to serve, see:

How to Serve a Business or Public Entity (http://www.courts.ca.gov/documents/sc104c.pdf)

The Registered Process Server's Guide to Service of Process in California
KFC 1004 .P75 K54 (Reference)

Handling Service of Process (Serving Summons in Civil Proceedings)
KFC 1004 .P75 L57

What Should be Served?

Although all documents may be personally served, certain types of papers *require* personal service, such as Orders to Show Cause, Temporary Restraining Orders, and Subpoenas. If you are starting a case, you will most likely need to have your Summons and Complaint served personally. Other types of documents may also require personal service. Be sure to check the codes to determine if personal service is required in your situation.

Where May Documents be Served?

Documents may be served at any location. This can be a home or business address, or anywhere else the party can be found.

What if the Person Being Served Cannot be Found?

If the party's address is known

Even with a known home or business address, it can be difficult to locate some people in order to serve them. If an individual cannot be personally served after diligent attempts, substituted service may be made for some types of documents. Summons, Notices, and Writs of Attachment or Execution may be served by substituted service.

Substituted service is performed by leaving a copy of the documents with a competent person over the age of 18 at the defendant's home address, or with the person apparently in charge at the defendant's business address. A copy of these documents must also be mailed to the defendant at the address where the server left the documents. Service is considered complete 10 days after a copy of the documents is mailed to the party.

The server is required to make a declaration to the court, detailing their diligent attempts to personally serve the party. If the court is not convinced that diligent attempts were made to personally serve the party, service will be deemed incomplete. The court will require at least three attempts on different days, at different times of day, and at all known addresses for the party. These attempts must be during hours at which the party would likely be available. For instance, service at a business address must be attempted during hours the party would normally be found at work.

If the party's address is unknown

If the other party cannot be located, you will have to ask the court for permission to publish the Summons in the newspaper. Publication of Summons is considered a method of last resort. The court can only approve your request for an Order for Publication of Summons if you show that the other party cannot be served in any other manner. You will need to prove to the court that you have made exhaustive attempts to locate the other party. For more information, see the Step-by-Step guide on Publication of Summons (https://www.saclaw.org/resource_library/publication-of-summons/) . For information on how to find people, see the Legal Research Guide on Finding People and Businesses (https://www.saclaw.org/resource_library/finding-people-and-businesses/) .

Who Can Serve My Court Papers?

Not you!!! Parties cannot serve documents in their own case. Someone over 18 who is not a party to the action must serve all court documents.

You have four options for having your papers served. There are pros and cons to each, so you will need to choose the most appropriate option for your situation. When personal service is required, many parties will elect to hire a professional to serve their papers, to ensure proper personal service. Your options for having your documents served are:

- The County Sheriff's Civil Bureau
- A registered process server
- An attorney
- An individual over the age of 18 who is not a party in your case

Sheriff in County where Target Resides or Works

Sacramento Sheriff's Civil Bureau
2969 Prospect Park Drive, Suite 200
Rancho Cordova CA 95670
(916) 875-2665
Mon and Fri 9am to 12 pm, T/W/Th 9am to 3:00pm.
A drop-box is available 8:00 a.m. to 5:00 p.m. Closed court holidays. Online filing is also available. (https://civil.sacsheriff.com/sheriff.portal)
Fees: usually as low as $50.00, and $50.00 per address/person for most documents. Confirm prices on the department website (https://www.sacsheriff.com/documents/civil/FEE%20SCHEDULE%20-%202025.pdf) or by contacting the department. Free with a fee waiver.
Copies needed: Vary by type of document served. Details are available on the Sheriff's Department website (https://www.sacsheriff.com/pages/civil_bureau.php) .

The Sacramento Sheriff's Civil Bureau can only serve documents in Sacramento County. To have documents served in another county, contact the Sheriff's Civil Division in that county to learn about their procedures.

Pros:

- Fees are reasonable, usually as low as $50.00, and $50.00 per address/person for most documents, or free with an *Order on Application for Fee Waiver of Court Fees and Costs*

(FW-003) from the court.
- They will prepare the correct Proof of Service form(s) for filing.
- They understand what documents you want served.
- They understand the attempts needed to effect substituted service on a party.
- Service by the Sheriff's Department is presumed to be valid. If challenged, the party contesting the service must prove service was not valid.
- Sheriff's Deputies are permitted to serve legal papers pursuant to the Civil Code of Procedure.

Cons:

- You must have a daytime address for whomever you are serving before the Sheriff will serve.
- They only serve Monday through Friday on their schedule. Keep in mind that it may take a while for the documents to be served.
- Sheriff's Deputies generally go out no more than a few times to attempt service.

Registered Process Server

Find in the yellow pages under "process servers" or "attorney services."
A directory of process servers is also available at the website of the California Association of Legal Support Professionals (http://www.calspro.org) .
Fees: Vary. Fees are usually based on the distance traveled and the difficulty of service.
Copies needed: Vary. The process server will tell you how many copies they will need.

A process server is a person who serves all types of legal documents.

Pros:

- Fees are usually reasonable. Most companies will accept credit cards. Each server sets his or her own rate, which typically varies depending on how far the server must travel and how difficult the person is to serve.
- They will prepare the correct Proof of Service form(s) for filing.
- They understand what documents you want served.
- They understand the attempts needed to effect substituted service on a party.
- Service performed by a registered process server is presumed to be valid. If challenged, the party contesting the service must prove service was not valid.
- Some will locate hard to find people in order to serve them, usually for an extra fee.

- They may be more flexible in the days and times they can perform service.
- Process servers must be bonded and licensed within the state in which they generally do business.

Cons:

- Most are more expensive than the Sheriff's Civil Division.
- You cannot use an Order on Application for Fee Waiver of Court Fees and Costs from the court to pay your fee.

An Attorney

If an attorney represents you in your case, the attorney or a staff member may serve the documents in your case, or may arrange for someone else to serve your documents, such as the Sheriff's Civil Division or a process server. In most cases, the attorney determines the best way to serve the documents.

An Individual over 18 who is not a Party in the Case

Fees: Whatever you agree on.
Copies needed: At least 3 copies of each document. If there is more than one party to be served, make another copy for each additional party.

Documents may be served by anyone you know, such as a friend, spouse, or other family member, as long as they are over 18 and not a named party to the case.

Pros:

- No charge for service, if agreed upon between you and the individual.
- If the person being sued is a family member or a friend, it will be easier for them to serve the person.
- They may serve anytime during the day, or on evenings and weekends.
- They may attempt service as many times as they wish.

Cons:

- You will need to know how to prepare the proper Proof of Service form(s) for filing, as the person serving may have difficulty completing the appropriate form.
- Individuals do not necessarily recognize what documents they will be serving.

- Individuals without experience frequently make mistakes, which can result in the service or the Proof of Service being defective.
- Service by an individual is not presumed valid, so if service is challenged in a motion, the burden is on the party who had documents served to prove that the service was valid.
- An individual can only serve 10 documents per year. If they serve more than that, they must become a licensed and bonded process server, though there are some exceptions to this rule.

If you choose to have a friend or family member serve your documents, be sure they understand how to perform proper service. Improper service or defective proof of service can negatively affect your case. At the least, it will lead to significant delays in your case, and may require complicated motions and paperwork to overcome. In some cases, ongoing problems with service may even lead to the dismissal of your case.

How is Personal Service Performed?

Personal Service:

- The server must be within normal speaking distance from the person being sued.
- If the server is not personally familiar with the person being served, verify the identity of the person being served. This can be as simple as asking “Are you John Smith?”
- Inform the person that they are being served, and the nature of the documents. Saying, “I have these legal documents for you” or “I’m serving you a Summons for a lawsuit” is sufficient.
- Give the documents to the person being served. If they refuse to take the documents, the documents can be left in the presence of the person, such as dropped at their feet.
- Complete a Proof of Service.
- The Proof of Service must be filed with the court. The person performing service, a party to the action, or anyone else, can do this.

Substituted Service:

NOTE: Substituted service is only allowed when personal service is impossible. The server MUST make diligent attempts to perform personal service before substituted service is permissible.

- Make several diligent attempts to serve the party personally. The court will require at least three attempts, on different days and at different times of day, and at all known addresses

for the party.
- Record all attempts to locate and serve the party personally.
- On the final attempt at personal service, if the party is not available, the server must personally contact someone who is at least 18 years old and a competent member of the household or a person in charge of the business at the time of service.
- Inform the person of the nature of the documents. This can be as simple as saying “I have these legal documents for John Smith” or “I’m serving John Smith a Summons for a lawsuit.”
- Give the documents to the person accepting service on behalf of the party. If they refuse to take the documents, the documents can be left in the presence of the person, such as dropped at their feet.
- If possible, obtain the name of the person accepting service. If they refuse to provide their name, note the physical description of the person accepting service.
- Mail a copy of the documents to the party being served. These documents must be mailed to the address at which you left the papers.
- Complete a Declaration describing the diligent attempts to serve the party personally.
- Complete a Proof of Service.
- File the Proof of Service and Declaration of Diligence with the court. You can download a template for the Declaration of Diligence from this link:
- Declaration of Diligence (https://saclaw.org/sbs-personal-service-declaration-of-diligence-1/)

What is a Proof of Service?

The Proof of Service is a document that lets the court know that a party was served with court documents. It is filled out by the server after the documents have been served. The Proof of Service is then filed with the court in most situations.

Many documents have their own Proof of Service form. If you are serving a document that has its own Proof of Service, you may need to use that Proof of Service form. Common documents with a specific Proof of Service form include:

- Summons for most types of cases
- Civil Harassment, Domestic Violence, and Workplace Violence Restraining Orders
- Subpoenas
- Many Probate, Family, Juvenile, and Small Claims forms

If there is no special Proof of Service, then you may use the general form, *Proof of Personal Service* (POS-020) (http://www.courts.ca.gov/documents/pos020.pdf) .

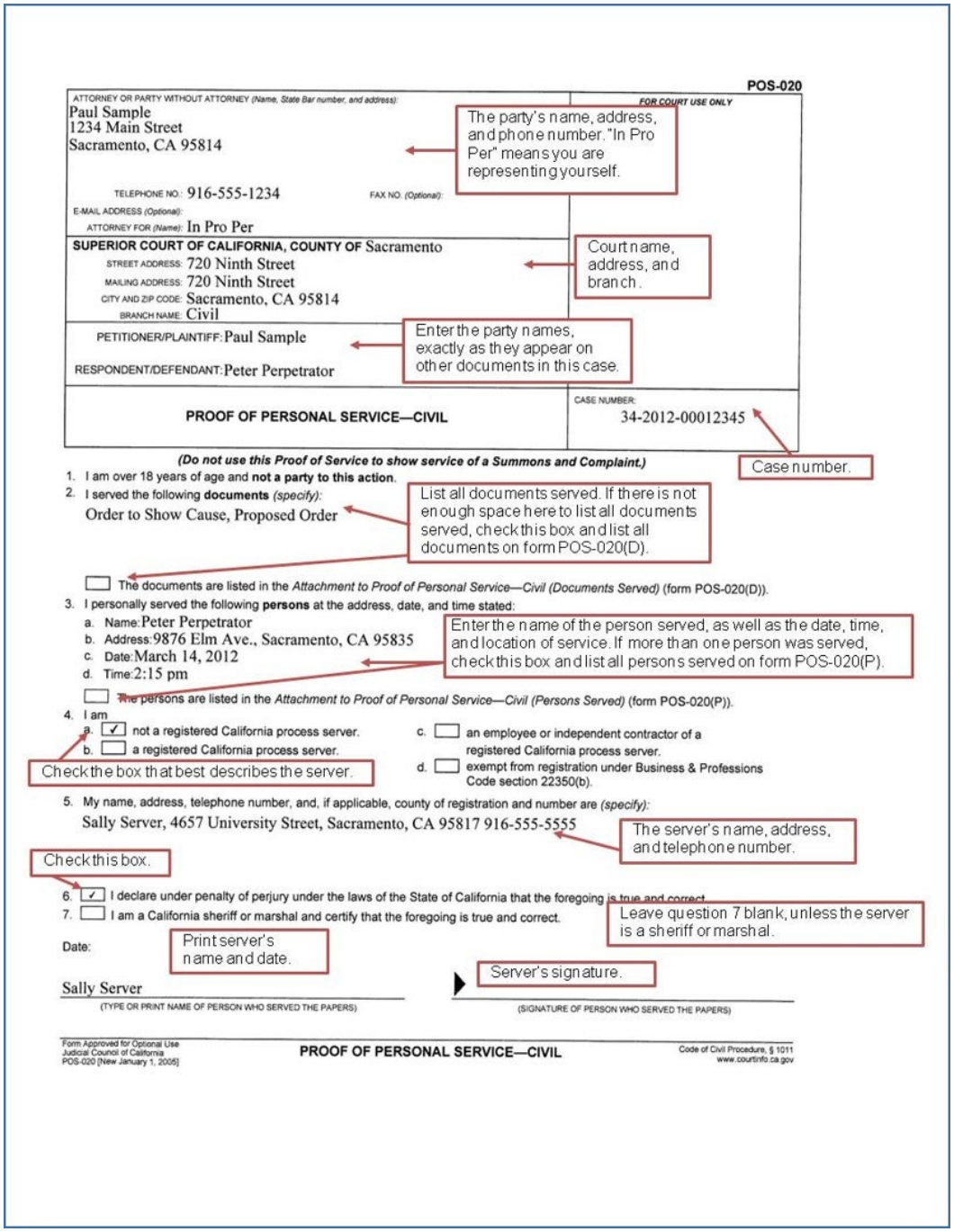
Although each Proof of Service is different, they all ask basically the same questions. The person performing service will have to indicate:

- Their name and address
- If they are a registered process server
- The date and location they served the papers
- The name of the person on whom the papers were served
- What documents were served

The Proof of Service is signed under the penalty of perjury.

Some Proof of Service forms include instructions for filling out the form. A sample of a completed *Proof of Personal Service* (POS-020) is at the end of this Guide. For samples of how to fill out other Proof of Service forms, please ask at the Reference Desk.

Sample



POS-020

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FOR COURT USE ONLY
Paul Sample
1234 Main Street
Sacramento, CA 95814

The party's name, address, and phone number. "In Pro Per" means you are representing yourself.

TELEPHONE NO.: 916-555-1234 FAX NO. (Optional):
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name): In Pro Per

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
STREET ADDRESS: 720 Ninth Street
MAILING ADDRESS: 720 Ninth Street
CITY AND ZIP CODE: Sacramento, CA 95814
BRANCH NAME: Civil

Court name, address, and branch.

PETITIONER/PLAINTIFF: Paul Sample
RESPONDENT/DEFENDANT: Peter Perpetrator

Enter the party names, exactly as they appear on other documents in this case.

PROOF OF PERSONAL SERVICE—CIVIL

CASE NUMBER: 34-2012-00012345

Case number.

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action.**
2. I served the following **documents** *(specify):*
   Order to Show Cause, Proposed Order

List all documents served. If there is not enough space here to list all documents served, check this box and list all documents on form POS-020(D).

   ☐ The documents are listed in the *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-020(D)).
3. I personally served the following **persons** at the address, date, and time stated:
   a. Name: Peter Perpetrator
   b. Address: 9876 Elm Ave., Sacramento, CA 95835
   c. Date: March 14, 2012
   d. Time: 2:15 pm

Enter the name of the person served, as well as the date, time, and location of service. If more than one person was served, check this box and list all persons served on form POS-020(P).

   ☐ The persons are listed in the *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-020(P)).
4. I am
   a. ☑ not a registered California process server.
   b. ☐ a registered California process server.
   c. ☐ an employee or independent contractor of a registered California process server.
   d. ☐ exempt from registration under Business & Professions Code section 22350(b).

Check the box that best describes the server.

5. My name, address, telephone number, and, if applicable, county of registration and number are *(specify):*
   Sally Server, 4657 University Street, Sacramento, CA 95817 916-555-5555

The server's name, address, and telephone number.

Check this box.

6. ☑ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7. ☐ I am a California sheriff or marshal and certify that the foregoing is true and correct.

Leave question 7 blank, unless the server is a sheriff or marshal.

Date:

Print server's name and date.

Sally Server
(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

Server's signature.

(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

Form Approved for Optional Use
Judicial Council of California
POS-020 [New January 1, 2005]

PROOF OF PERSONAL SERVICE—CIVIL

Code of Civil Procedure, § 1011
www.courtinfo.ca.gov

Proof of Service – Civil (POS-020)

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