

# **CERTIFIED CIVIL PROCESS SERVER PROGRAM**

**Administrative Office of the Courts  
11th Judicial Circuit of Florida**



## **INFORMATION MANUAL**

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# CERTIFIED PROCESS SERVER OATH

*I understand that...*

*“Under Florida Law, anyone may file a lawsuit against anyone, at any time, for any reason. It is up to the Court to determine the validity of the complaint. It is my duty, simply, to ensure that service is perfected in accordance with Florida Statutes and Rules of Court, so that the case may proceed. I will file all returns of service honestly. I will testify and stand by my service if called upon. I will hold no opinion nor prejudice regarding any paper I serve. I will remain a disinterested party in all process that I serve. I will not render legal advice nor speculate on the cause or outcome of the proceeding to any party that I serve. I will treat all parties with respect, compassion, and professionalism in the performance of my duties for the Court.”*

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## **WHAT IS “PROCESS?”**

### **(A Brief Introduction)**

The term “process” is used to refer to the means by which the court compels defendants and other interested persons (such as witnesses) to appear in court for both civil and criminal cases. Process is any type of formal court document directed to a particular named person commanding him or her to do or to refrain from doing an action. Process includes complaints, summons, writs, warrants, and other types of judicial documents. Two common forms of process are a “summons,” which requires a person to come to court, and a “subpoena,” which requires a witness to appear before a judge or court to testify.

Process must be correctly “served,” delivered to the person named in the process, in order for the court to acquire jurisdiction (i.e. power) over that person or their property. If process is not served correctly, the court may not legally consider the matter and any decision rendered by that court is subject to being voided. A judgment entered without service of process on the defendant is void and may be attacked at any time, even after one year has passed. *See M.L. Builders, Inc., v. Reserve Developers, LLP*, 769 So. 2d 1079 (Fla. 4th DCA 2000).

The purpose of process is to provide notice to the defendant (and to other interested persons) and warn him or her that the plaintiff has begun a judicial action or proceeding. This notice/warning ensures that the defendant will appear at the specified time and place to defend the action and protect his or her interests. Therefore, process is used both to inform the defendant and to vest jurisdiction over the person or the property in the court. *See Gribbel v. Henderson*, 10 So. 2d 734, 739 (1942), *aff’d* 14 So. 2d 809 (1943).

When the action/proceeding is filed, the court or clerk must issue the process against the defendant(s). Only when the court can confirm the delivery of process, may the court proceed with the action. If process is not served or if it is served incorrectly, the plaintiff or court may seek other methods of serving the defendant. For example, when it proves impossible to serve the first summons, the court/clerk can issue an “alias summons.” The third and subsequent time process issues, it is called “pluries.” *Premier Capital, LLC v. Davalle*, 994 So. 2d 360, 361 (Fla. 3d DCA 2008).

In summary, for process to be valid and enforceable, it must strictly conform to statutory and court rules:

- (a) it must contain the seal of the court;
- (b) it must be signed by the person who served it;
- (c) it must contain the required service information; and,
- (d) it must be served in the manner prescribed by law.

As an example of improper service, in *Willoughby v. Seese Realty, Inc.*, 421 So. 2d 691 (Fla. 4th DCA 1982), the court decided that where the summons and complaint were not delivered to petitioner or anyone else but were simply left at petitioner’s door, this was improper service and the judgment should have been set aside. Similarly, in *Russell v. Zulla*, 556 So. 2d 1241 (Fla. 5th DCA 1990), the court held that it was fundamental that a copy of the initial pleading be delivered at the time of personal service of process. Even though § 48.21

permitted amendment to the return of service for failure to include on the return the required information, there was no procedure by which failure to serve the initial complaint at the time of personal service could be corrected. Therefore, the service of process was quashed.

## **THE SERVICE OF PROCESS**

### **A. Introduction**

The term “service of process” refers to the delivery of judicial documents to the person(s) named in the documents in a manner that places the named person(s) on notice that a judicial action has commenced against him/her. As already noted, proper service also vests the court with jurisdiction (i.e. power) over the person named in the documents or their property.

Generally, there are two kinds of service: (1) actual, personal service is when the documents are delivered to the named person and either explained or read to him or her; and (2) substitute or constructive service occurs when the documents are either given to a person other than the named person who lives at the same home as the named person, or if the named person is not immediately available, by posting the documents at the home, by mailing them, or by publishing them in a newspaper.

All process must be served by the sheriff of the county where the named person is located. The only exception to this statutory requirement is that in the case of initial non-enforceable civil process, a “special” or “certified” process server may be used. The Attorney General defined initial, non-enforceable process as civil process which is not required by statute to be delivered by the sheriff. *See* Op. Att’y Gen. Fla. 89-1 (1989). Pursuant to § 48.021(1), Fla. Stat. (2009), any person authorized by rules of procedure may serve witness subpoenas.

Under § 48.021(3), Fla. Stat. (2009), the sheriff appoints a special process server. The special process server can only serve process in the county of the appointing sheriff. *See Cheshire v. Birenbaum*, 688 So. 2d 430 (Fla. 3d DCA 1997). A reasonable fee may be charged for the service of a special process server. The sheriff may revoke any appointment whenever it is determined that a special process server is not performing his or her job adequately. Any special process server who willfully and knowingly executes a false return or otherwise violates the oath of office is guilty of a felony and may be permanently barred from serving process in the state. § 48.021(4), Fla. Stat. (1999).

Pursuant to §§ 48.25 - 48.31, Fla. Stat. (1999), the Florida Certified Process Server Act (the “Act”), the chief judge of each judicial circuit, like the sheriff above, may appoint certified process servers according to statute and rules of the court. The Act establishes the application procedure to become a certified process server. The Act also regulates how certified process servers may be terminated.

Any process served by anyone who is not approved by the court is invalid and will not be enforced. However, the court may appoint an appropriate person not interested in the

action to serve process. The court may also specifically exclude a person from serving process.

## **B. Who May Be Served**

Any person properly within the court's jurisdiction has both a duty and an obligation to accept the reasonable service of process. For example, in *Olin v. Haney*, 245 So. 2d 669 (Fla. 4th DCA 1971), the court decided that where a person flees from the process server in a deliberate attempt to avoid service, the delivery requirement may be satisfied if the process server leaves the papers at a place in which such person can easily retrieve them and takes reasonable steps to call such delivery to the attention of the person to be served. When more than one defendant or person is named in the process, service must be had as to all of them or the court will only be able to proceed against those on whom service was effectively carried out.

Substituted service may be had in many circumstances. For example, in *Sangmeister v. McElnea*, 278 So. 2d 675 (Fla. 3d DCA 1973), the court decided that the defendant's aunt who was a citizen of England and had been residing in the defendant's home for approximately four months at the time the summons and complaint were left with her at the defendant's home was a "person of the family over fifteen years of age" within the meaning of statute. Service of process was accomplished by leaving copies of the summons at the party's usual place of abode with some family member over age 15. In *Couts v. Maryland Casualty Co.*, 306 So. 2d 594 (Fla. 2d DCA 1975), the court decided that service on defendant's mother-in-law, who was not living with defendant, but had instead come for a visit, was not sufficient to constitute substituted service on defendant. *See also Gamboa v. Jones*, 455 So. 2d 613 (Fla. 3d DCA 1984).

## **C. Where Process May Be Served**

Process issued by the circuit court is effective throughout the entire state. It may be issued in one county and served on a person, who is a state resident, in another county. For example, in *Patten v. Mokher*, 184 So. 29 (Fla. 1938), the court decided that the circuit courts have jurisdiction over residents regardless of the county in which they reside, and, when reached by summons, they become subject to the court's orders and decrees.

However, if process is served by the sheriff or a person appointed by him or by a certified process server, it must be served in the county where the sheriff appointed the process server. *See* § 48.021(3), Fla. Stat. (2009); *Cheshire v. Birenbaum*, 688 So. 2d 430 (Fla. 3d DCA 1997). Although the court decided in *Abbate v. Provident Nat'l Bank*, 631 So. 2d 312 (Fla. 5th DCA 1994), that a process server certified in one county may serve civil process on a person found within the circuit only when the action was also filed in the same circuit, the Florida Legislature abrogated this decision by enacting § 48.27(2), Fla. Stat. (2009). This provision, effective July 1, 2009, provides that the addition of a person's name to the list of certified process servers authorizes him/her to "serve initial nonenforceable civil process on a person found within the circuit where the process server is certified when a civil action has been filed against such person in the circuit court or in a county court in the state." *Id.* Furthermore, an alias on a summons is "immaterial to the validity of service or the return"

where the summons also includes the served-person's correct name and an alias. *Demos v. Landmark at Hillsboro Condo. Ass'n, Inc.*, 47 So. 3d 971, 972 (Fla. 4th DCA 2010).

**D. Service on Sunday (Fla. Stat. § 48.20)**

Service of process on Sunday is void; the person serving or causing the process to be served may be liable for any damages caused by the Sunday service. However, if an affidavit by the person requesting service is filed stating that the affiant has good cause to believe that the person to be served intends to escape from the state under the protection of Sunday, then service may be carried out on Sunday and it will be considered valid.

**E. Service on Minors (Fla. Stat. § 48.041)**

There are three types of service on minors in the State of Florida:

- (1) If the minor is married or has ever been married, he or she may be served exactly as any other adult in the state;
- (2) If the minor has had a legal guardian appointed, the guardian must be served;
- (3) In all other cases, the minor is served by serving the parent or guardian.

For example, in *Jones v. Lucks*, 349 So. 2d 691 (Fla. 4th DCA 1977), the court found that the statute relating to service of process on an unmarried minor required reading the process out loud to the minor. The deputy sheriff did not comply with the statute where he merely handed papers to the minor and stated that someone was suing him. Therefore, service of process was insufficient.

**F. Service on Prisoners (Fla. Stat. § 48.051)**

Process on a prisoner is served exactly as on any other person in the state. In *Shurman v. Atlantic Mort. & Inv.*, 795 So. 2d 952 (Fla. 2001), the court decided that in a mortgage foreclosure action, the inmate's "usual place of abode" for purposes of serving the inmate was state prison.

**G. Service on Corporations (Fla. Stat. § 48.081)**

Service on a corporation may be accomplished in three ways:

- (1) By serving process on the designated corporate officers or agents;
- (2) By serving any officer or agent of a foreign corporation transacting business in the state of Florida;
- (3) By serving the corporation's registered agent.

However, if service cannot be made on a registered agent because of failure to comply with § 48.091, service of process shall be permitted on any employee at the corporation's principal place of business or on any employee of the registered agent. See *Kalb v. Sail Condominium Ass'n Inc.*, 112 So. 3d 674 (Fla. 3d DCA 2013). Additionally, if the address provided for the registered agent, officer, director, or principal place of business is a residence or private mailbox, service on the corporation may be made by serving the



registered agent, officer, or director in accordance with § 48.031. Regarding a private mailbox listed as a corporate address, “substitute service on a corporation by serving *the person in charge of a private mailbox* is not authorized *unless* the only address for the person to be served, which is discoverable *through the public records*, is the private mailbox.” *TID Servs., Inc. v. Dass*, 65 So. 3d 1 (Fla. 2d DCA 2010).

Service of process against any private corporation, domestic or foreign, except insurance companies, may be served upon the president or vice-president, or other head of the corporation.

In the absence of a president, vice-president, or other corporate head, process may be served upon the cashier, treasurer, secretary or general manager. In the absence of the above officials, service may be made upon any director, or in the absence of the directors and the officers described above, upon any officer or business agent residing within the state. As always, the statute governing service of process must be strictly complied with. For example, in *York Communications, Inc. v. Furst Group, Inc.*, 724 So. 2d 678 (Fla. 4th DCA 1999), the court decided that service of process on a corporate defendant was improper where the process server’s affidavit merely stated that service was made on a John Doe corporate employee but did not state that he had first attempted to serve the registered agent or that the agent was absent.

Service of process on a dissolved corporation must be made on one or more directors as trustee, rather than on a registered agent. *Cannella v. Auto Owners Ins. Co.*, 801 So. 2d 94 (Fla. 2000) (for corporations dissolved before July 1, 1990). For a corporation dissolved on or after July 1, 1990, an officer, a director, manager, or a registered agent may accept service of process. *See NTCA Corp. v. Assocs. Commercial Corp.*, 812 So. 2d 506 (Fla. 3d DCA 2002).

## **H. Service on public agencies and officers (Fla. Stat. § 48.111)**

Process against any municipal corporation, agency, board or commission, department or subdivision of the state or any county which has a governing board, council, or commission or which is a body corporate must be served: (1) on the president, mayor, chairman, or other head thereof, and (2) in his or her absence, on the vice-president, vice-mayor, or vice-chairman, or (3) in the absence of all of the above, on any member of the governing board, council, or commission.

Process against any public agency, board, commission, or department not a body corporate or having a governing board or commission must be served on the public officer being sued or the chief executive officer of the agency, board, commission, or department.

In any suit in which the Department of Revenue, or its successor, is a party, process against the department shall be served on the executive director of the department. This procedure is to be used in lieu of any other provision of general law; the Department of Revenue is the only state agency which may be served in this manner.

## **I. Service on the State of Florida and its state agencies (Fla. Stat. § 48.121)**

Process against the state (when the state has consented to suit) must be served on the state attorney or an assistant state attorney for the judicial circuit within which the action is brought and by sending two copies of the process by registered or certified mail to the Attorney General.

## **IMMUNITY FROM SERVICE**

### **A. Ambassadors, Consuls, and other Foreign Ministers**

It is the recognized law of practically all nations that ambassadors, consuls, and other specific ministers serving in foreign countries are not subject to the laws of the host country. Hence, they are generally exempt from the service of process in any judicial proceeding or action. *See Alberti v. Empresa Nicaraguense De La Carne*, 705 F.2d 250, 253 (7th Cir. 1983) (concluding that the plaintiffs inadequately served the defendants, pursuant to section 1608(a)(3), “by mail upon the Ambassador of Nicaragua in Washington, D.C.”). The United States Congress designates a method by which a plaintiff may serve a foreign nation with a summons and complaint. 28 U.S.C. § 1608. Also, the United States abides by at least one treaty involving serving judicial documents upon parties in other nations. *See Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, entered into force* February 10, 1969, T.I.A.S. No. 6638, 20 U.S.T. 361.

### **B. Non Residents Attending Court in a Foreign Jurisdiction**

Also immune from process are witnesses or litigants who travel from the territorial jurisdiction of their own homes to attend a court-related matter in another jurisdiction. Furthermore, these persons are immune from process for a reasonable period of time before and after going to court and returning to their homes. For example, in *Mallin v. Sunshine Kitchens, Inc.*, 314 So. 2d 203 (Fla. 3d DCA 1975), *cert. denied*, 330 So. 2d 22 (Fla. 1976), the court decided that process served upon a defendant who entered the jurisdiction for the purpose of discussing a settlement was invalid because it was served during a good-faith settlement conference. This rule is based on the policy reason that to allow service on such people would discourage them from attending court in the first place. However, service of process is permitted on a nonresident attending court in a foreign jurisdiction if the process which issues is in a case that is related to the case for which the nonresident is in attendance and if the parties and the issues are identical. *Diaz v. First Capital Corp.*, 771 So. 2d 598 (Fla. 3d DCA 2000).

In the criminal context, when a defendant travels into another county to answer an information charging the defendant with a crime, the defendant remains immune from any other civil or criminal process while he or she is in court. The defendant remains immune from process for a reasonable time within which to get back to his or her county of residence.

Courts will quash process served within the state upon a nonresident where it is determined that the service was only possible due to fraud or deceit.

## TYPES OF SERVICE

### A. Personal Service

Personal service is probably the most common way of obtaining service over a defendant and/or the defendant's property. It is also the most effective way of informing him or her that an action has commenced. Personal service is usually required for the court to obtain jurisdiction over the person. Personal service is carried out by physically delivering a copy of the process to the person to be served and explaining to him or her its contents. However, it is no longer required to actually place the process in the named person's hands or to have the process touch the named person. Nevertheless, process must be served by someone authorized to deliver process for it to become legally effective.

A person may not elude service when an officer comes to the person's home attempting to serve process. *See Olin v. Haney*, 245 So. 2d 669 (Fla. 4th DCA 1971). Additionally, in *Liberman v. Commercial Nat'l Bank of Broward County*, 256 So. 2d 63 (Fla. 4th DCA 1971), the court decided that where a defendant, upon seeing a process server approach, ran into his house and closed the door, and where the process server, a deputy sheriff, left a copy of the process and suit papers in the mailbox and afterwards observed the defendant exit his house and remove the papers from the mailbox, personal service on such defendant was effective. Section 48.031(7), Florida Statutes (2011), now mandates a gated residential community to permit unannounced entry to a process server.

When personal service is carried out, the process server must write the date and time of service, his or her identification number and initials on only the copy of the summons served, not on the copy of the complaint. *Nirk v. Bank of America*, 94 So. 3d 658 (Fla. 4th DCA 2012). Each person who effects service of process shall note on a return-of-service form attached thereto, the date and time when it comes into hand, the date and time when it is served, the manner of service, the name of the person on whom it was served, and if the person is served in a representative capacity, the position occupied by the person. The return-of-service must be signed by the person who effects the service of process. However, a person employed by a sheriff who effects the service of process may sign the return-of-service form using an electronic signature certified by the sheriff.

In *Koster v. Sullivan*, 103 So. 3d 882 (Fla. 2d DCA 2012), the court held that a return of service which stated that service was made via substitute service on defendant's sister-in-law was regular on its face, and thus service would be presumed valid, even though the return of service did not address the elements of the substitute service statute, such as stating that the sister-in-law was at least 15 years old and that the content of the process was explained to her. The court found that the statute governing the return of service required that it state the manner of service, but did not require reference to the statute governing such manner of service, and evidence that the elements of substitute service were not met could be used to rebut the presumption of validity. *Id.* However, the issue of whether a process server is required to expressly list the factors defining the "manner of service" on the return has been certified as a question of great public importance. The Florida Supreme Court answered the certified question in the negative. The Florida Supreme Court held "that a facially valid

return of service is not required to expressly list the factors defining the ‘manner of service’ contained in section 48.031(1)(a), Florida Statutes (2009), which are not included in the requirements of section 48.21, Florida Statutes (2009), defining valid return of service.” *Koster v. Sullivan*, 160 So. 3d 385 (Fla. 2015).

Also, in *Aboudraah v. Tartus Group, Inc.*, 795 So. 2d 79 (Fla. 5th DCA 2000), the defendant’s assertion that she failed to answer the complaint because she lacked a mastery of the English language was insufficient to overcome the process server’s testimony that he had explained the contents of the summons and there was no indication that the defendant did not understand it.

## **B. Substituted and Constructive Service**

Substituted service occurs when the process server delivers process to a person over age 15 who resides with the person named in the process. Substituted service may also be had by delivering process to another individual authorized by law or contract to receive the process for the named person. In both circumstances, the process server must explain to the person receiving the process what it contains. *See Sangmeister v. McElnea*, 278 So. 2d 675 (Fla. 3d DCA 1973). Additionally, if two or more attempts to serve the owner have been made at the place of business, service can be accomplished by serving the person in charge of the business during regular business hours. § 48.031(2)(b), Fla. Stat. (2011).

Constructive service is made by publishing a notice with information about the action in the appropriate newspaper or by posting the notice in a place as authorized by law. Constructive notice also generally requires that a copy of the process be mailed to the person named at his or her last known address. Constructive service may also be carried out by posting the process on a conspicuous part of the premises. However, in *Knight Manor No. One, Inc. v. Freeman*, 254 So. 2d 375 (Fla. 3d DCA 1971), the court found that the deputy sheriff’s knocking on the premise’s door at 9:00 a.m. and leaving after receiving no response and then returning at 12:30 p.m. the same day, at which time the deputy, receiving no response, posted a copy of the complaint and summons on the door, were insufficient to establish that defendant could not be found in the county for purposes of permitting service by attaching the summons to the premises. Additionally, § 48.183(1), Fla. Stat. (2010), permits attaching a copy of the process to a conspicuous place in any action for the possession of residential premises including actions filed pursuant to the Florida Residential Landlord and Tenant Act.

Plaintiffs must strictly comply with the statutes governing substituted service of process:

- Where non-resident corporate defendant is being served through the Secretary of State under § 48.161, the plaintiff must make an effort to find the individual non-resident defendants. Placing all the notices and copies of process addressed to the individual non-resident defendants into an envelope which is addressed to the corporate defendant and then served upon the Secretary of State does not constitute service upon the individual

non-resident defendants. *Tire Group Int'l, Inc. v. Confianca Mudancas & Transportes*, 776 So. 2d 1057 (Fla. 3d DCA 2001).

- Where non-resident corporate defendant is being served through the Secretary of State under § 48.181, substitute service must be made by registered mail. Service by Federal Express, instead of registered mail, does not give the court jurisdiction over the defendant. *General de Seguros, S.A. v. Consolidated Prop. & Cas. Ins. Co.*, 776 So. 2d 990 (Fla. 3d DCA 2001).
- Service of process via private courier upon property owners who were out of the country is invalid because it failed to satisfy the requirement of § 48.194 that substituted service be made by registered mail. *Federal Nat'l Mortgage Ass'n v. Fandino*, 751 So. 2d 752 (Fla. 3d DCA 2000).
- In a landlord-tenant action, where substituted service is accomplished by posting, this service confers jurisdiction on the court to determine the landlord's interest in the property. However, service by posting does not confer personal jurisdiction over the defendant. Therefore, when the landlord seeks a personal money judgment against the tenant, the tenant must be personally served. *Springbrook Commons, Ltd. v. Brown*, 761 So. 2d 1192 (Fla. 4th DCA 2000).
- Service which is made on a random employee of a domestic corporation is void, unless there is a showing of the necessity for substituted service. *Nationsbanc Mortgage Corp. v. Gardens North Condo. Ass'n*, 764 So. 2d 883 (Fla. 4th DCA 2000).
- Plaintiff must demonstrate exercise of due diligence when using substitute service under § 48.161 or § 48.171 to effect service upon a nonresident who is concealing his or her whereabouts. *Alvarado-Fernandez v. Mazoff*, 151 So. 3d 8 (Fla. 4th DCA 2014).

### **C. Extraterritorial Service**

Service of process may be had on a person outside Florida in the same manner as service is had within the state. *SDS-IC v. Fla. Concentrates Int'l, Inc.*, 157 So. 3d 389 (Fla. 2d DCA 2015). Process outside Florida must be served by a person authorized to serve the process in that jurisdiction. For example, in *Pina v. Simon-Pina*, 544 So. 2d 1161 (Fla. 5th DCA 1989), the court, noting that strict compliance with service of process statutes and procedures for out-of-state service was required, quashed service in Curacao for two reasons. First, because of a failure to record the manner of service and the name of the person served. Second, because an affidavit, which is required by the statute, was not attached to the return. Rather, an acknowledgment, in which the person merely declared that he executed and signed the document was attached. The court found that where an affidavit is called for, an acknowledgment would not suffice. *See also Takiff v. Takiff*, 683 So. 2d 595 (Fla. 3d DCA 1996).

## **SUBSTITUTED SERVICE BY LEAVING PROCESS AT PERSON’S “USUAL PLACE OF ABODE”**

### **A. In general**

As already noted above, service of process can be carried out by leaving copies of the complaint, petition, or other initial pleadings or papers at the “usual place of abode” of the party to be served with any person of at least 15 years of age living in the same residence and by informing the person receiving the process of the contents.

Whether there is any kinship by blood or marriage between the defendant and the person served at the defendant’s abode is irrelevant. For example, in *Speer v. Wooddell*, 340 So. 2d 524 (Fla. 3d DCA 1976), the court decided that a person, who had resided in the same abode as the defendant for approximately one year prior to the time he was served with a copy of the complaint and summons by plaintiff, was a “person of the family” for purposes of process and, hence, was a proper person upon whom to effect substituted service. *See also Couts v. Maryland Cas. Co.*, 306 So. 2d 594 (Fla. 2d DCA 1975).

Service of process is not effective where service is made on a domestic employee (for example, a housekeeper or maid) who is not a resident. *See Baker v. Stearns Bank, N.A.*, 84 So. 3d 1122 (Fla. 2d DCA 2012). Neither may service be carried out on a mere visitor. Additionally, the court in *Schupak v. Sutton Hill Assocs.*, 710 So. 2d 707 (Fla. 4th DCA 1998), decided that leaving process with the apartment doorman in the lobby was insufficient service.

The statute’s requirements are to be strictly complied with, otherwise the service is void. For example, in *Stern v. Gad*, 505 So. 2d 531 (Fla. 3d DCA 1987), the court decided that mere ownership of a condominium and service upon the owner’s wife would not suffice to establish “usual place of abode”; the defendant submitted an affidavit that he was not in the jurisdiction on the date of purported service, and that in fact he did not reside in the United States. The court noted that residence and “usual place of abode” did not necessarily mean the same thing. *See Bennett v. Christiana Bank & Trust Co.*, 50 So. 3d 43 (Fla. 3d DCA 2010).

### **B. “Usual place of abode”**

A party’s “usual place of abode” is the place where the person to be served is actually living at the time of the service of process. “Residence” is not the same thing as “usual place of abode.” If a defendant has several residences, he or she must be served at the residence in which he or she is actually living at the time service is made. *See Demos*, 47 So. 3d at 972 (“If that was not her [condo owner’s] usual place of abode, she could not be served there by delivering the summons to a resident at that address”). For example, in *Ward v. Gibson*, 349 So. 2d 173 (Fla. 3d DCA 1976), the court decided that service of process on the defendant’s roommate at the roommate’s leased parking space in the garage of the high-rise condominium apartment complex where defendant and roommate resided was not made at the defendant’s “usual place of abode” and was not valid service. But see the Fourth

District's ruling in *Rokeach v. Glickstein*, 718 So. 2d 831 (Fla. 4th DCA 1998), where the court decided that service made by holding the process up to the car window of the named individual who had been hiding inside the house was effective. In this case, the process server intercepted the vehicle as it drove away from the house (8 to 10 feet from the house), identified himself and described the summons and complaint while holding them up to the car window for five or six seconds before the driver pulled away. *See also Shurman v. Atlantic Mortgage*, 795 So. 2d 952 (Fla. 2001) (where "usual place of abode" was prison rather than home where inmate had lived with his wife).

## **CONSTRUCTIVE SERVICE BY PUBLICATION**

In some types of cases, constructive service of process by publication, in place of personal service, is authorized by statute and by the rules of civil procedure. Constructive service statutes give a nonresident, unknown, absent, or concealed defendant the opportunity to come into court and defend the suit against him or her within the time specified in the order to appear. Statutes allowing service by publication must provide for sufficient notice of the action to be fair to the defendants and to satisfy federal and Florida due process requirements.

Generally, the statute must be strictly construed to give the court jurisdiction. However, substantial compliance with the statute's essential requirements may suffice where the service gives reasonably sufficient notice that is fair to the defendant and satisfies due process requirements.

If personal service cannot be carried out after exercising reasonable diligence, notice by publication providing the defendant a reasonable opportunity to receive notice and to present his defense satisfies due process. However, if the statute's essential requirements are not followed, a decision rendered on notice by publication is void as to the parties who do not appear or plead in the cause.

To ensure fairness, before the court proceeds with the action, it should satisfy itself that the plaintiff acted with diligence and good faith in attempting to make constructive service. *See Miller v. Partin*, 31 So. 3d 224, 228 (Fla. 5th DCA 2010); *Knight Manor No. One, Inc. v. Freeman*, 254 So. 2d 375 (Fla. 3d DCA 1971).

## **RETURN OR PROOF OF SERVICE**

### **A. In general**

A "return" or proof of service is a short written statement made by the serving officer indicating the manner in which he or she served the process. § 48.21, Fla. Stat. (2011). It is the officer's official statement of the acts done by him or her while trying to serve the process according to the law. The person who serves the process must make proof of service promptly. If service of process is made by a person who is appointed by the court because the officer normally authorized to do so is disqualified or is unable to act, the court-appointed person must make proof of service.

If the return is regular on its face, it serves as a basis for the court to assume that it has lawfully obtained jurisdiction over the defendant. However, if the return is defective on its face, it cannot be relied on as evidence that the court acquired jurisdiction over the defendant to whom the process was directed. Any irregularity does not necessarily affect the service's validity because it is the service of process and not the return that gives the court jurisdiction. The return is merely the evidence by which the court is informed that the defendant has been served.

## **B. Forms and Requisites**

Pursuant to § 48.29(6), Fla. Stat. (2011), a certified process server must note on the “first page of at least one of the processes served” those items provided in § 48.031(5):

- (1) the date when it was served;
- (2) the time when it was served;
- (3) the Certified Process Server's identification number
- (4) the Certified Process Server's initials

The return of service must comply with § 48.21, Fla. Stat. (2011), and include:

- (1) the date the process comes to hand;
- (2) the time the process comes to hand;
- (3) the date when it was served;
- (4) the time when it was served;
- (5) the manner of service (personal, substituted, etc.);
- (6) the name of the person on whom it was served; and
- (7) the position occupied by the person served, if he or she was served in a representative capacity.

According to Administrative Order 94-18, the return of service must also include:

- (1) the printed name, signature, and ID # of the certified process server;
- (2) words indicating that s/he is a certified process server;
- (3) words indicating that s/he is a disinterested party in the process being served.

In the case of joint defendants, the return should show that each of them was served in the manner required by law. A failure to indicate the required facts invalidates the service, but the return may be amended with the missing information at any time on application to the court, and on the amendment, the service becomes as effective as if the return had originally stated such facts. A failure to state the required facts or to include a signature subjects the officer so failing to a discretionary fine not exceeding \$10. § 48.21(2), Fla. Stat. (2011).

In *Johnston v. Halliday*, 516 So. 2d 84 (Fla. 3d DCA 1987), the court decided that proving valid service required that there be evidence establishing (a) that the address was the defendant's usual place of abode, (b) the identity of the person served, (c) whether that person was over age fifteen (15), (d) whether that person resided at the address of service, and (e) whether that person was informed of the papers' contents. The return of service filed by the



process server only stated that a copy of the process was left at the defendant's temporary residence with her son who was "of suitable age and discretion." Based on this information, the court found that although the return adequately identified that the party was served, it failed to state that he was over age fifteen (15). The return also failed to state that the defendant's son resided with her or that the process server explained the contents of the papers to the boy. Therefore, the return of service was incorrect and service was quashed.

## **APPENDIX**

- A. Florida Statutes, Chapter 48  
Process and Service of Process**
- B. Miscellaneous Statutes and Rules Relating to the  
Service of Process**
- C. Legislative Updates**
- D. Administrative Order No, 16-11  
Re: Certification and Regulation of Certified Civil Process Servers within  
the Eleventh Judicial Circuit**

## **A. CHAPTER 48**

### **PROCESS AND SERVICE OF PROCESS**

- 48.011 Process; how directed
- 48.021 Process; by whom served
- 48.031 Service of process generally; service of witness subpoenas
- 48.041 Service on minor
- 48.042 Service on incompetent
- 48.051 Service on state prisoners
- 48.061 Service on partnerships and limited partnerships
- 48.062 Service on a limited liability company
- 48.071 Service on agents of nonresidents doing business in the state
- 48.081 Service on corporation
- 48.091 Corporations; designation of registered agent and registered office
- 48.092 Service on financial institutions
- 48.101 Service on dissolved corporations
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- 48.121 Service on the state
- 48.131 Service on alien property custodian
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- 48.161 Method of substituted service on nonresident
- 48.171 Service on nonresident motor vehicle owners, etc.
- 48.181 Service on nonresident engaging in business in state
- 48.183 Service of process in action for possession of premises
- 48.19 Service on nonresidents operating aircraft or watercraft in the state
- 48.193 Acts subjecting person to jurisdiction of courts of state
- 48.194 Personal service outside state
- 48.195 Service of foreign process
- 48.196 Service of process in connection with actions under the Florida International  
Commercial Arbitration Act
- 48.20 Service of process on Sunday
- 48.21 Return of execution of process
- 48.22 Cumulative to other laws
- 48.23 Lis pendens
- 48.25 Short title
- 48.27 Certified process servers
- 48.29 Certification of process servers
- 48.31 Removal of certified process servers; false return of service

### **Florida Statute § 48.011 Process; how directed**

Summons, subpoenas, and other process in civil actions run throughout the state. All process except subpoenas shall be directed to all and singular the sheriffs of the state.

### **Florida Statute § 48.021 Process; by whom served**

- (1) All process shall be served by the sheriff of the county where the person to be served is found, except initial nonenforceable civil process, criminal witness subpoenas, and criminal summonses may be served by a special process server appointed by the sheriff as provided for in this section or by a certified process server as provided for in ss. 48.25-48.31. Civil witness subpoenas may be served by any person authorized by rules of civil procedure.
- (2)(a) The sheriff of each county may, in his or her discretion, establish an approved list of natural persons designated as special process servers. The sheriff shall add to such list the names of those natural persons who have met the requirements provided for in this section. Each natural person whose name has been added to the approved list is subject to annual recertification and reappointment by the sheriff. The sheriff shall prescribe an appropriate form for application for appointment. A reasonable fee for the processing of the application shall be charged.
- (b) A person applying to become a special process server shall:
  1. Be at least 18 years of age.
  2. Have no mental or legal disability.
  3. Be a permanent resident of the state.
  4. Submit to a background investigation that includes the right to obtain and review the criminal record of the applicant.
  5. Obtain and file with the application a certificate of good conduct that specifies there is no pending criminal case against the applicant and that there is no record of any felony conviction, nor a record of a misdemeanor involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years.
  6. Submit to an examination testing the applicant's knowledge of the laws and rules regarding the service of process. The content of the examination and the passing grade thereon, and the frequency and the location at which the examination is offered must be prescribed by the sheriff. The examination must be offered at least once annually.

7. Take an oath that the applicant will honestly, diligently, and faithfully exercise the duties of a special process server.
- (c) The sheriff may prescribe additional rules and requirements directly related to subparagraphs (b)1.-7. regarding the eligibility of a person to become a special process server or to have his or her name maintained on the list of special process servers.
  - (d) An applicant who completes the requirements of this section must be designated as a special process server provided that the sheriff of the county has determined that the appointment of special process servers is necessary or desirable. Each special process server must be issued an identification card bearing his or her identification number, printed name, signature and photograph, and an expiration date. Each identification card must be renewable annually upon proof of good standing.
  - (e) The sheriff shall have the discretion to revoke an appointment at any time that he or she determines a special process server is not fully and properly discharging the duties as a special process server. The sheriff shall institute a program to determine whether the special process servers appointed as provided for in this section are faithfully discharging their duties pursuant to such appointment, and a reasonable fee may be charged for the costs of administering such program.
- (3) A special process server appointed in accordance with this section shall be authorized to serve process in only the county in which the sheriff who appointed him or her resides and may charge a reasonable fee for his or her services.
  - (4) Any special process server shall be disinterested in any process he or she serves; and if the special process server willfully and knowingly executes a false return of service or otherwise violates the oath of office, he or she shall be guilty of a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in Florida.

**Florida Statute § 48.031 Service of process generally; service of witness subpoenas**

- (1)(a) Service of original process is made by delivering a copy of it to the person to be served with a copy of the complaint, petition, or other initial pleading or paper or by leaving the copies at his or her usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents. Minors who are or have been married shall be served as provided in this section.
- (b) An employer, when contacted by an individual authorized to serve process, shall allow the authorized individual to serve an employee in a private area

designated by the employer. An employer who fails to comply with this paragraph commits a noncriminal violation, punishable by a fine of up to \$1,000.

- (2)(a) Substitute service may be made on the spouse of the person to be served at any place in the county, if the cause of action is not an adversary proceeding between the spouse and the person to be served, if the spouse requests such service, and if the spouse and person to be served are residing together in the same dwelling.
- (b) Substitute service may be made on an individual doing business as a sole proprietorship at his or her place of business, during regular business hours, by serving the person in charge of the business at the time of service if two attempts to serve the owner have been made at the place of business.
- (3)(a) The service of process of witness subpoenas, whether in criminal cases or civil actions, shall be made as provided in subsection (1). However, service of a subpoena on a witness in a civil traffic case, a criminal traffic case, a misdemeanor case, or a second degree or third degree felony may be made by United States mail directed to the witness at the last known address, and the service must be mailed at least 7 days prior to the date of the witness's required appearance. Failure of a witness to appear in response to a subpoena served by United States mail that is not certified may not be grounds for finding the witness in contempt of court.
- (b) A criminal witness subpoena commanding the witness to appear for a court appearance may be posted by a person authorized to serve process at the witness's residence if three attempts to serve the subpoena, made at different times of the day or night on different dates, have failed. A criminal witness subpoena commanding the witness to appear for a deposition may be posted by a person authorized to serve process at the witness's residence if one attempt to serve the subpoena has failed. The subpoena must be posted at least 5 days before the date of the witness's required appearance.
- (4)(a) Service of a criminal witness subpoena upon a law enforcement officer or upon any federal, state, or municipal employee called to testify in an official capacity in a criminal case may be made as provided in subsection (1) or by delivery to a designated supervisory or administrative employee at the witness's place of employment if the agency head or highest ranking official at the witness's place of employment has designated such employee to accept such service. However, no such designated employee is required to accept service:

1. For a witness who is no longer employed by the agency at that place of employment;

2. If the witness is not scheduled to work prior to the date the witness is required to appear; or

3. If the appearance date is less than 5 days from the date of service.

The agency head or highest ranking official at the witness's place of employment may determine the days of the week and the hours that service may be made at the witness's place of employment.

- (b) Service may also be made in accordance with subsection (3) provided that the person who requests the issuance of the criminal witness subpoena shall be responsible for mailing the subpoena in accordance with that subsection and for making the proper return of service to the court.
- (5) A person serving process shall place, on the first page of at least one of the processes served, the date and time of service and his or her identification number and initials for all service of process. The person serving process shall list on the return-of-service form all initial pleadings delivered and served along with the process. The person requesting service or the person authorized to serve the process shall file the return-of-service form with the court.
- (6)(a) If the only address for a person to be served which is discoverable through public records is a private mailbox, a virtual office, or an executive office or mini suite, substitute service may be made by leaving a copy of the process with the person in charge of the private mailbox, virtual office, or executive office or mini suite, but only if the process server determines that the person to be served maintains a mailbox, a virtual office, or an executive office or mini suite at that location.
- (b) For purposes of this subsection, the term “virtual office” means an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space, and where all communications are routed through a common receptionist. The term “executive office or mini suite” means an office that provides communications services, such as telephone and facsimile services, a dedicated office space, and other supportive services, and where all communications are routed through a common receptionist.
- (7) A gated residential community, including a condominium association or a cooperative, shall grant unannounced entry into the community, including its common areas and common elements, to a person who is attempting to serve process on a defendant or witness who resides within or is known to be within the community.

**Florida Statute § 48.041 Service on minor**

- (1) Process against a minor who has never been married shall be served:
  - (a) By serving a parent or guardian of the minor as provided for in s. 48.031 or, when there is a legal guardian appointed for the minor, by serving the guardian as provided for in s. 48.031.
  - (b) By serving the guardian ad litem or other person, if one is appointed by the court to represent the minor. Service on the guardian ad litem is unnecessary when he or she appears voluntarily or when the court orders the appearance without service of process on him or her.
- (2) In all cases heretofore adjudicated in which process was served on a minor as prescribed by any law heretofore existing, the service was lawfully made, and no proceeding shall be declared irregular or illegal if a guardian ad litem appeared for the minor.

**Florida Statute § 48.042 Service on incompetent**

- (1) Process against an incompetent shall be served:
  - (a) By serving two copies of the process to the person who has care or custody of the incompetent or, when there is a legal guardian appointed for the incompetent, by serving the guardian as provided in s. 48.031.
  - (b) By serving the guardian ad litem or other person, if one is appointed by the court to represent the incompetent. Service on the guardian ad litem is unnecessary when he or she appears voluntarily or when the court orders the appearance without service of process on him or her.
- (2) In all cases heretofore adjudicated in which process was served on an incompetent as prescribed by any law heretofore existing, the service was lawfully made, and no proceeding shall be declared irregular or illegal if a guardian ad litem appeared for the incompetent.

**Florida Statute § 48.051 Service on state prisoners**

Process against a state prisoner shall be served on the prisoner.

**Florida Statute § 48.061 Service on partnerships and limited partnerships**

- (1) Process against a partnership shall be served on any partner and is as valid as if served on each individual partner. If a partner is not available during regular business hours to accept service on behalf of the partnership, he or she may designate an employee to accept such service. After one attempt to serve a



partner or designated employee has been made, process may be served on the person in charge of the partnership during regular business hours. After service on any partner, plaintiff may proceed to judgment and execution against that partner and the assets of the partnership. After service on a designated employee or other person in charge, plaintiff may proceed to judgment and execution against the partnership assets but not against the individual assets of any partner.

- (2) Process against a domestic limited partnership may be served on any general partner or on the agent for service of process specified in its certificate of limited partnership or in its certificate as amended or restated and is as valid as if served on each individual member of the partnership. After service on a general partner or the agent, the plaintiff may proceed to judgment and execution against the limited partnership and all of the general partners individually. If a general partner cannot be found in this state and service cannot be made on an agent because of failure to maintain such an agent or because the agent cannot be found or served with the exercise of reasonable diligence, service of process may be effected by service upon the Secretary of State as agent of the limited partnership as provided for in s. 48.181. Service of process may be made under ss. 48.071 and 48.21 on limited partnerships.
- (3) Process against a foreign limited partnership may be served on any general partner found in the state or on any agent for service of process specified in its application for registration and is as valid as if served on each individual member of the partnership. If a general partner cannot be found in this state and an agent for service of process has not been appointed or, if appointed, the agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence, service of process may be effected by service upon the Secretary of State as agent of the limited partnership as provided for in s. 48.181, or process may be served as provided in ss. 48.071 and 48.21.

#### **Florida Statute § 48.062 Service on a limited liability company**

- (1) Process against a limited liability company, domestic or foreign, may be served on the registered agent designated by the limited liability company under chapter 605. A person attempting to serve process pursuant to this subsection may serve the process on any employee of the registered agent during the first attempt at service even if the registered agent is a natural person and is temporarily absent from his or her office.
- (2) If service cannot be made on a registered agent of the limited liability company because of failure to comply with chapter 605 or because the limited liability company does not have a registered agent, or if its registered agent cannot with reasonable diligence be served, process against the limited liability company, domestic or foreign, may be served:

- (a) On a member of a member-managed limited liability company;
  - (b) On a manager of a manager-managed limited liability company; or
  - (c) If a member or manager is not available during regular business hours to accept service on behalf of the limited liability company, he, she, or it may designate an employee of the limited liability company to accept such service. After one attempt to serve a member, manager, or designated employee has been made, process may be served on the person in charge of the limited liability company during regular business hours.
- (3) If, after reasonable diligence, service of process cannot be completed under subsection (1) or subsection (2), service of process may be effected by service upon the Secretary of State as agent of the limited liability company as provided for in s. 48.181.
- (4) If the address provided for the registered agent, member, or manager is a residence or private mailbox, service on the limited liability company, domestic or foreign, may be made by serving the registered agent, member, or manager in accordance with s. 48.031.
- (5) This section does not apply to service of process on insurance companies.

**Florida Statute § 48.071 Service on agents of nonresidents doing business in the state**

When any natural person or partnership not residing or having a principal place of business in this state engages in business in this state, process may be served on the person who is in charge of any business in which the defendant is engaged within this state at the time of service, including agents soliciting orders for goods, wares, merchandise or services. Any process so served is as valid as if served personally on the nonresident person or partnership engaging in business in this state in any action against the person or partnership arising out of such business. A copy of such process with a notice of service on the person in charge of such business shall be sent forthwith to the nonresident person or partnership by registered or certified mail, return receipt requested. An affidavit of compliance with this section shall be filed before the return day or within such further time as the court may allow.

**Florida Statute § 48.081 Service on corporation**

- (1) Process against any private corporation, domestic or foreign, may be served:
  - (a) On the president or vice president, or other head of the corporation;
  - (b) In the absence of any person described in paragraph (a), on the cashier, treasurer, secretary, or general manager;

- (c) In the absence of any person described in paragraph (a) or paragraph (b), on any director; or
  - (d) In the absence of any person described in paragraph (a), paragraph (b), or paragraph (c), on any officer or business agent residing in the state.
- (2) If a foreign corporation has none of the foregoing officers or agents in this state, service may be made on any agent transacting business for it in this state.
- (3)(a) As an alternative to all of the foregoing, process may be served on the agent designated by the corporation under s. 48.091. However, if service cannot be made on a registered agent because of failure to comply with s. 48.091, service of process shall be permitted on any employee at the corporation's principal place of business or on any employee of the registered agent. A person attempting to serve process pursuant to this paragraph may serve the process on any employee of the registered agent during the first attempt at service even if the registered agent is temporarily absent from his or her office.
- (b) If the address for the registered agent, officer, director, or principal place of business is a residence, a private mailbox, a virtual office, or an executive office or mini suite, service on the corporation may be made by serving the registered agent, officer, or director in accordance with s. 48.031.
- (4) This section does not apply to service of process on insurance companies.
- (5) When a corporation engages in substantial and not isolated activities within this state, or has a business office within the state and is actually engaged in the transaction of business therefrom, service upon any officer or business agent while on corporate business within this state may personally be made, pursuant to this section, and it is not necessary in such case that the action, suit, or proceeding against the corporation shall have arisen out of any transaction or operation connected with or incidental to the business being transacted within the state.

**Florida Statute § 48.091 Corporations; designation of registered agent and registered office**

- (1) Every Florida corporation and every foreign corporation now qualified or hereafter qualifying to transact business in this state shall designate a registered agent and registered office in accordance with part I of chapter 607.
- (2) Every corporation shall keep the registered office open from 10 a.m. to 12 noon each day except Saturdays, Sundays, and legal holidays, and shall keep one or more registered agents on whom process may be served at the office

during these hours. The corporation shall keep a sign posted in the office in some conspicuous place designating the name of the corporation and the name of its registered agent on whom process may be served.

**Florida Statute § 48.092 Service on financial institutions**

Service on financial institutions must be made in accordance with s. 655.0201.

**Florida Statute § 48.101 Service on dissolved corporations**

Process against the directors of any corporation which was dissolved before July 1, 1990, as trustees of the dissolved corporation shall be served on one or more of the directors of the dissolved corporation as trustees thereof and binds all of the directors of the dissolved corporation as trustees thereof. Process against any other dissolved corporation shall be served in accordance with s. 48.081.

**Florida Statute § 48.102 Service on financial institutions**

Service on financial institutions must be made in accordance with s. 655.0201.

**Florida Statute § 48.111 Service on public agencies and officers**

- (1) Process against any municipal corporation, agency, board, or commission, department, or subdivision of the state or any county which has a governing board, council, or commission or which is a body corporate shall be served:
  - (a) On the president, mayor, chair, or other head thereof; and in his or her absence;
  - (b) On the vice president, vice mayor, or vice chair, or in the absence of all of the above;
  - (c) On any member of the governing board, council, or commission.
- (2) Process against any public agency, board, commission, or department not a body corporate or having a governing board or commission shall be served on the public officer being sued or the chief executive officer of the agency, board, commission, or department.
- (3) In any suit in which the Department of Revenue or its successor is a party, process against the department shall be served on the executive director of the department. This procedure is to be in lieu of any other provision of general law, and shall designate said department to be the only state agency or department to be so served.

**Florida Statute § 48.121 Service on the state**

When the state has consented to be sued, process against the state shall be served on the state attorney or an assistant state attorney for the judicial circuit within which the action is brought and by sending two copies of the process by registered or certified mail to the Attorney General. The state may serve motions or pleadings within 40 days after service is made. This section is not intended to authorize the joinder of the Attorney General or a state attorney as a party in such suit or prosecution.

**Florida Statute § 48.131 Service on alien property custodian**

In every action or proceeding in any court or before any administrative board involving real, personal, or mixed property, or any interest therein, when service of process or notice is required or directed to be made upon any person, firm or corporation located, or believed to be located, within any country or territory in the possession of or under the control of any country between which and the United States a state of war exists, in addition to the giving of the notice or service of process, a copy of the notice or process shall be sent by registered or certified mail to the alien property custodian, addressed to him or her at Washington, District of Columbia; but failure to mail a copy of the notice or process to the alien property custodian does not invalidate the action or proceeding.

**Florida Statute § 48.141 Service on labor unions**

Process against labor organizations shall be served on the president or other officer, business agent, manager or person in charge of the business of such labor organization.

**Florida Statute § 48.151 Service on statutory agents for certain persons**

- (1) When any law designates a public officer, board, agency, or commission as the agent for service of process on any person, firm, or corporation, service of process thereunder shall be made by leaving one copy of the process with the public officer, board, agency, or commission or in the office thereof, or by mailing one copy to the public officer, board, agency, or commission. The public officer, board, agency, or commission so served shall retain a record copy and promptly send the copy served, by registered or certified mail, to the person to be served as shown by his or her or its records. Proof of service on the public officer, board, agency, or commission shall be by a notice accepting the process which shall be issued by the public officer, board, agency, or commission promptly after service and filed in the court issuing the process. The notice accepting service shall state the date upon which the copy of the process was mailed by the public officer, board, agency, or commission to the person being served and the time for pleading prescribed by the rules of procedure shall run from this date. The service is valid service

for all purposes on the person for whom the public officer, board, agency, or commission is statutory agent for service of process.

- (2) This section does not apply to substituted service of process on nonresidents.
- (3) The Chief Financial Officer or his or her assistant or deputy or another person in charge of the office is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, any unauthorized insurer under s. 626.906 or s. 626.937, domestic reciprocal insurers, fraternal benefit societies under chapter 632, warranty associations under chapter 634, prepaid limited health service organizations under chapter 636, and persons required to file statements under s. 628.461. As an alternative to service of process made by mail or personal service on the Chief Financial Officer, on his or her assistant or deputy, or on another person in charge of the office, the Department of Financial Services may create an Internet-based transmission system to accept service of process by electronic transmission of documents.
- (4) The Director of the Office of Financial Regulation of the Financial Services Commission is the agent for service of process for any issuer as defined in s. 517.021, or any dealer, investment adviser, or associated person registered with that office, for any violation of any provision of chapter 517.
- (5) The Secretary of State is the agent for service of process for any retailer, dealer or vendor who has failed to designate an agent for service of process as required under s. 212.151 for violations of chapter 212.
- (6) For purposes of this section, records may be retained as paper or electronic copies.

**Florida Statute § 48.161 Method of substituted service on nonresident**

- (1) When authorized by law, substituted service of process on a nonresident or a person who conceals his or her whereabouts by serving a public officer designated by law shall be made by leaving a copy of the process with a fee of \$8.75 with the public officer or in his or her office or by mailing the copies by certified mail to the public officer with the fee. The service is sufficient service on a defendant who has appointed a public officer as his or her agent for the service of process. Notice of service and a copy of the process shall be sent forthwith by registered or certified mail by the plaintiff or his or her attorney to the defendant, and the defendant's return receipt and the affidavit of the plaintiff or his or her attorney of compliance shall be filed on or before the return day of the process or within such time as the court allows, or the notice and copy shall be served on the defendant, if found within the state, by an officer authorized to serve legal process, or if found without the state, by a sheriff or a deputy sheriff of any county of this state or any duly constituted

public officer qualified to serve like process in the state or jurisdiction where the defendant is found. The officer's return showing service shall be filed on or before the return day of the process or within such time as the court allows. The fee paid by the plaintiff to the public officer shall be taxed as cost if he or she prevails in the action. The public officer shall keep a record of all process served on him or her showing the day and hour of service.

- (2) If any person on whom service of process is authorized under subsection (1) dies, service may be made on his or her administrator, executor, curator, or personal representative in the same manner.
- (3) This section does not apply to persons on whom service is authorized under s. 48.151.
- (4) The public officer may designate some other person in his or her office to accept service.

**Florida Statute § 48.171 Service on nonresident motor vehicle owners, etc.**

Any nonresident of this state, being the operator or owner of any motor vehicle, who accepts the privilege extended by the laws of this state to nonresident operators and owners, of operating a motor vehicle or of having it operated, or of permitting any motor vehicle owned, or leased, or controlled by him or her to be operated with his or her knowledge, permission, acquiescence, or consent, within the state, or any resident of this state, being the licensed operator or owner of or the lessee, or otherwise entitled to control any motor vehicle under the laws of this state, who becomes a nonresident or conceals his or her whereabouts, by the acceptance or licensure and by the operation of the motor vehicle, either in person, or by or through his or her servants, agents, or employees, or by persons with his or her knowledge, acquiescence, and consent within the state constitutes the Secretary of State his or her agent for the service of process in any civil action begun in the courts of the state against such operator or owner, lessee, or other person entitled to control of the motor vehicle, arising out of or by reason of any accident or collision occurring within the state in which the motor vehicle is involved.

**Florida Statute § 48.181 Service on nonresident engaging in business in state**

- (1) The acceptance by any person or persons, individually or associated together as a copartnership or any other form or type of association, who are residents of any other state or country, and all foreign corporations, and any person who is a resident of the state and who subsequently becomes a nonresident of the state or conceals his or her whereabouts, of the privilege extended by law to nonresidents and others to operate, conduct, engage in, or carry on a business or business venture in the state, or to have an office or agency in the state, constitutes an appointment by the persons and foreign corporations of the Secretary of State of the state as their agent on whom all process in any action or proceeding against them, or any of them, arising out of any

transaction or operation connected with or incidental to the business or business venture may be served. The acceptance of the privilege is signification of the agreement of the persons and foreign corporations that the process against them which is so served is of the same validity as if served personally on the persons or foreign corporations.

- (2) If a foreign corporation has a resident agent or officer in the state, process shall be served on the resident agent or officer.
- (3) Any person, firm, or corporation which sells, consigns, or leases by any means whatsoever tangible or intangible personal property, through brokers, jobbers, wholesalers, or distributors to any person, firm, or corporation in this state is conclusively presumed to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business or business venture in this state.

**Florida Statute § 48.183 Service of process in action for possession of premises**

- (1) In an action for possession of any residential premises, including those under chapters 83, 723, and 513, or nonresidential premises, if the tenant cannot be found in the county or there is no person 15 years of age or older residing at the tenant's usual place of abode in the county after at least two attempts to obtain service as provided above in this subsection, summons may be served by attaching a copy to a conspicuous place on the property described in the complaint or summons. The minimum time delay between the two attempts to obtain service shall be 6 hours. Nothing herein shall be construed as prohibiting service of process on a tenant as is otherwise provided on defendants in civil cases.
- (2) If a landlord causes or anticipates causing a defendant to be served with a summons and complaint solely by attaching them to some conspicuous place on the property described in the complaint or summons, the landlord shall provide the clerk of the court with an additional copy of the complaint and a prestamped envelope addressed to the defendant at the premises involved in the proceeding. The clerk of the court shall immediately mail the copy of the summons and complaint by first-class mail, note the fact of mailing in the docket, and file a certificate in the court file of the fact and date of mailing. Service shall be effective on the date of posting or mailing, whichever occurs later, and at least 5 days must elapse from the date of service before a judgment for final removal of the defendant may be entered.



**Florida Statute § 48.19 Service on nonresidents operating aircraft or watercraft in the state**

The operation, navigation, or maintenance by a nonresident of an aircraft or a boat, ship, barge, or other watercraft in the state, either in person or through others, and the acceptance thereby by the nonresident of the protection of the laws of this state for the aircraft or watercraft, or the operation, navigation, or maintenance by a nonresident of an aircraft or a boat, ship, barge, or other watercraft in the state, either in person or through others, other than under the laws of the state, or any person who is a resident of the state and who subsequently becomes a nonresident or conceals his or her whereabouts, constitutes an appointment by the nonresident of the Secretary of State as the agent of the nonresident or concealed person on whom all process may be served in any action or proceeding against the nonresident or concealed person growing out of any accident or collision in which the nonresident or concealed person may be involved while, either in person or through others, operating, navigating, or maintaining an aircraft or a boat, ship, barge, or other watercraft in the state. The acceptance by operation, navigation, or maintenance in the state of the aircraft or watercraft is signification of the nonresident's or concealed person's agreement that process against him or her so served shall be of the same effect as if served on him or her personally.

**Florida Statute § 48.193 Acts subjecting person to jurisdiction of courts of state**

(1)(a) A person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if he or she is a natural person, his or her personal representative to the jurisdiction of the courts of this state for any cause of action arising from any of the following acts:

1. Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.
2. Committing a tortious act within this state.
3. Owning, using, possessing, or holding a mortgage or other lien on any real property within this state.
4. Contracting to insure a person, property, or risk located within this state at the time of contracting.
5. With respect to a proceeding for alimony, child support, or division of property in connection with an action to dissolve a marriage or with respect to an independent action for support of dependents, maintaining a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether

cohabiting during that time or not. This paragraph does not change the residency requirement for filing an action for dissolution of marriage.

6. Causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time of the injury, either:

a. The defendant was engaged in solicitation or service activities within this state; or

b. Products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.

7. Breaching a contract in this state by failing to perform acts required by the contract to be performed in this state.

8. With respect to a proceeding for paternity, engaging in the act of sexual intercourse within this state with respect to which a child may have been conceived.

9. Entering into a contract that complies with s. 685.102.

(b) Notwithstanding any other provision of this subsection, an order issued, or a penalty or fine imposed, by an agency of another state is not enforceable against any person or entity incorporated or having its principal place of business in this state if the other state does not provide a mandatory right of review of the agency decision in a state court of competent jurisdiction.

(2) A defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity.

(3) Service of process upon any person who is subject to the jurisdiction of the courts of this state as provided in this section may be made by personally serving the process upon the defendant outside this state, as provided in s. 48.194. The service shall have the same effect as if it had been personally served within this state.

(4) If a defendant in his or her pleadings demands affirmative relief on causes of action unrelated to the transaction forming the basis of the plaintiff's claim, the defendant shall thereafter in that action be subject to the jurisdiction of the court for

any cause of action, regardless of its basis, which the plaintiff may by amendment assert against the defendant.

(5) Nothing contained in this section limits or affects the right to serve any process in any other manner now or hereinafter provided by law.

**Florida Statute § 48.194 Personal service outside state**

- (1) Except as otherwise provided herein, service of process on persons outside of this state shall be made in the same manner as service within this state by any officer authorized to serve process in the state where the person is served. No order of court is required. An affidavit of the officer shall be filed, stating the time, manner, and place of service. The court may consider the affidavit, or any other competent evidence, in determining whether service has been properly made. Service of process on persons outside the United States may be required to conform to the provisions of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.
  
- (2) Where in rem or quasi in rem relief is sought in a foreclosure proceeding as defined by s. 702.09, service of process on a person outside of this state where the address of the person to be served is known may be made by registered mail as follows:
  - (a) The party's attorney or the party, if the party is not represented by an attorney, shall place a copy of the original process and the complaint, petition, or other initial pleading or paper and, if applicable, the order to show cause issued pursuant to s. 702.10 in a sealed envelope with adequate postage addressed to the person to be served.
  
  - (b) The envelope shall be placed in the mail as registered mail.
  
  - (c) Service under this subsection shall be considered obtained upon the signing of the return receipt by the person allowed to be served by law.
  
- (3) If the registered mail which is sent as provided for in subsection (2) is returned with an endorsement or stamp showing "refused," the party's attorney or the party, if the party is not represented by an attorney, may serve original process by first-class mail. The failure to claim registered mail is not refusal of service within the meaning of this subsection. Service of process pursuant to this subsection shall be perfected as follows:
  - (a) The party's attorney or the party, if the party is not represented by an attorney, shall place a copy of the original process and the complaint, petition, or other initial pleading or paper and, if applicable, the order to show cause issued pursuant to s. 702.10 in a sealed envelope with adequate postage addressed to the person to be served.
  
  - (b) The envelope shall be mailed by first-class mail with the return address of the party's attorney or the party, if the party is not represented by an attorney, on the envelope.

- (c) Service under this subsection shall be considered obtained upon the mailing of the envelope.
  
- (4) If service of process is obtained under subsection (2), the party's attorney or the party, if the party is not represented by an attorney, shall file an affidavit setting forth the return of service. The affidavit shall state the nature of the process; the date on which the process was mailed by registered mail; the name and address on the envelope containing the process; the fact that the process was mailed registered mail return receipt requested; who signed the return receipt, if known, and the basis for that knowledge; and the relationship between the person who signed the receipt and the person to be served, if known, and the basis for that knowledge. The return receipt from the registered mail shall be attached to the affidavit. If service of process is perfected under subsection (3), the party's attorney or the party, if the party is not represented by an attorney, shall file an affidavit setting forth the return of service. The affidavit shall state the nature of the process; the date on which the process was mailed by registered mail; the name and address on the envelope containing the process that was mailed by registered mail; the fact that the process was mailed registered mail and was returned with the endorsement or stamp "refused"; the date, if known, the process was "refused"; the date on which the process was mailed by first-class mail; the name and address on the envelope containing the process that was mailed by first-class mail; and the fact that the process was mailed by first-class mail with a return address of the party or the party's attorney on the envelope. The return envelope from the attempt to mail process by registered mail and the return envelope, if any, from the attempt to mail the envelope by first-class mail shall be attached to the affidavit.

**Florida Statute § 48.195      Service of foreign process**

- (1) The service of process issued by a court of a state other than Florida may be made by the sheriffs of this state in the same manner as service of process issued by Florida courts. The provisions of this section shall not be interpreted to permit a sheriff to take any action against personal property, real property, or persons.
  
- (2) An officer serving such foreign process shall be deemed as acting in the performance of his or her duties for the purposes of ss. 30.01, 30.02, 843.01, and 843.02, but shall not be held liable as provided in s. 839.19 for failure to execute any process delivered to him or her for service.
  
- (3) The sheriffs shall be entitled to charge fees for the service of foreign process, and the fees shall be the same as fees for the service of comparable process for the Florida courts. When the service of foreign process requires duties to be performed in excess of those required by Florida courts, the sheriff may perform the additional duties and may collect reasonable additional compensation for the additional duties performed.

**Florida Statute § 48.196      Service of process in connection with actions under the Florida International Commercial Arbitration Act**

- (1) Any process in connection with the commencement of an action before the courts of this state under chapter 684, the Florida International Commercial Arbitration Act, shall be served:
  - (a) In the case of a natural person, by service upon:
    1. That person;
    2. Any agent for service of process appointed in, or pursuant to, any applicable agreement or by operation of any law of this state; or
    3. Any person authorized by the law of the jurisdiction where process is being served to accept service for that person.
  - (b) In the case of any person other than a natural person, by service upon:
    1. Any agent for service of process appointed in, or pursuant to, any applicable agreement or by operation of any law of this state;
    2. Any person authorized by the law of the jurisdiction where process is being served to accept service for that person; or
    3. Any person, whether natural or otherwise and wherever located, who by operation of law or internal action is an officer, business agent, director, general partner, or managing agent or director of the person being served; or
    4. Any partner, joint venturer, member or controlling shareholder, wherever located, of the person being served, if the person being served does not by law or internal action have any officer, business agent, director, general partner, or managing agent or director.
- (2) The process served under subsection (1) shall include a copy of the application to the court together with all attachments thereto and shall be served in the following manner:
  - (a) In any manner agreed upon, whether service occurs within or without this state;
  - (b) If service is within this state:

1. In the manner provided in ss. 48.021 and 48.031, or
  2. If applicable under their terms, in the manner provided in ss. 48.161, 48.183, 48.23, or chapter 49; or
- (c) If service is outside this state:
1. By personal service by any person authorized to serve process in the jurisdiction where service is being made or by any person appointed to do so by any competent court in that jurisdiction;
  2. In any other manner prescribed by the laws of the jurisdiction where service is being made for service in an action before a local court of competent jurisdiction;
  3. In the manner provided in any applicable treaty to which the United States is a party;
  4. In the manner prescribed by order of the court;
  5. By any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the person being served; or
  6. If applicable, in the manner provided in chapter 49.
- (3) No order of the court is required for service of process outside this state. The person serving process shall make proof of service to the court by affidavit or as prescribed by the law of the jurisdiction where process is being served or as prescribed in an order of the court. Such proof shall be made prior to expiration of the time within which the person served must respond. If service is by mail, the proof of service shall state the date and place of mailing and shall include a receipt signed by the addressee or other evidence of delivery satisfactory to the court.

### **Florida Statute § 48.20 Service of process on Sunday**

Service or execution on Sunday of any writ, process, warrant, order, or judgment is void and the person serving or executing, or causing it to be served or executed, is liable to the party aggrieved for damages for so doing as if he or she had done it without any process, writ, warrant, order, or judgment. If affidavit is made by the person requesting service or execution that he or she has good reason to believe that any person liable to have any such writ, process, warrant, order, or judgment served on him or her intends to escape from this state under protection of Sunday, any officer furnished with an order authorizing service or execution by the trial court judge may

serve or execute such writ, process, warrant, order, or judgment on Sunday, and it is as valid as if it had been done on any other day.

**Florida Statute § 48.21 Return of execution of process**

(1) Each person who effects service of process shall note on a return-of-service form attached thereto, the date and time when it comes to hand, the date and time when it is served, the manner of service, the name of the person on whom it was served and, if the person is served in a representative capacity, the position occupied by the person. The return-of-service form must be signed by the person who effects the service of process. However, a person employed by a sheriff who effects the service of process may sign the return-of-service form using an electronic signature certified by the sheriff.

(2) A failure to state the facts or to include the signature required by subsection (1) invalidates the service, but the return is amendable to state the facts or to include the signature at any time on application to the court from which the process issued. On amendment, service is as effective as if the return had originally stated the omitted facts or included the signature. A failure to state all the facts in or to include the signature on the return shall subject the person effecting service to a fine not exceeding \$10, in the court's discretion.

**Florida Statute § 48.22 Cumulative to other laws**

All provisions of this chapter are cumulative to other provisions of law or rules of court about service of process, and all other provisions about service of process are cumulative to this chapter.

**Florida Statute § 48.23 Lis pendens**

(1)(a) An action in any of the state or federal courts in this state operates as a lis pendens on any real or personal property involved therein or to be affected thereby only if a notice of lis pendens is recorded in the official records of the county where the property is located and such notice has not expired pursuant to subsection (2) or been withdrawn or discharged.

(b)1. An action that is filed for specific performance or that is not based on a duly recorded instrument has no effect, except as between the parties to the proceeding, on the title to, or on any lien upon, the real or personal property unless a notice of lis pendens has been recorded and has not expired or been withdrawn or discharged.

2. Any person acquiring for value an interest in the real or personal property during the pendency of an action described in subparagraph 1., other than a party to the proceeding or the legal successor by operation of law, or personal representative, heir, or devisee of a deceased party to the proceeding, shall take such interest exempt from all claims against the property that were filed in such action by the party who failed to record a notice of lis pendens or



whose notice expired or was withdrawn or discharged, and from any judgment entered in the proceeding, notwithstanding the provisions of s. 695.01, as if such person had no actual or constructive notice of the proceeding or of the claims made therein or the documents forming the causes of action against the property in the proceeding.

- (c)1. A notice of lis pendens must contain the following:
  - a. The names of the parties.
  - b. The date of the institution of the action, the date of the clerk's electronic receipt, or the case number of the action.
  - c. The name of the court in which it is pending.
  - d. A description of the property involved or to be affected.
  - e. A statement of the relief sought as to the property.
2. In the case of any notice of lis pendens filed on the same date as the pleading upon which the notice is based, the clerk's notation of the date of receipt on the notice shall satisfy the requirement that the notice contain the date of the institution of the action.
- (d) Except for the interest of persons in possession or easements of use, the recording of such notice of lis pendens, provided that during the pendency of the proceeding it has not expired pursuant to subsection (2) or been withdrawn or discharged, constitutes a bar to the enforcement against the property described in the notice of all interests and liens, including, but not limited to, federal tax liens and levies, unrecorded at the time of recording the notice unless the holder of any such unrecorded interest or lien intervenes in such proceedings within 30 days after the recording of the notice. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings are prosecuted to a judicial sale of the property described in the notice, the property shall be forever discharged from all such unrecorded interests and liens. If the notice of lis pendens expires or is withdrawn or discharged, the expiration, withdrawal, or discharge of the notice does not affect the validity of any unrecorded interest or lien.
- (2) A notice of lis pendens is not effectual for any purpose beyond 1 year from the commencement of the action and will expire at that time, unless the relief sought is disclosed by the pending pleading to be founded on a duly recorded instrument or on a lien claimed under part I of chapter 713 against the property involved, except when the court extends the time of expiration on reasonable notice and for good cause. The court may impose such terms for the extension of time as justice requires.

- (3) When the pending pleading does not show that the action is founded on a duly recorded instrument or on a lien claimed under part I of chapter 713 or when the action no longer affects the subject property, the court shall control and discharge the recorded notice of lis pendens as the court would grant and dissolve injunctions.
- (4) This section applies to all actions now or hereafter pending in any state or federal courts in this state, but the period of time specified in subsection (2) does not include the period of pendency of any action in an appellate court.

**Florida Statute § 48.25 Short title**

Sections 48.25-48.31 may be cited as the "Florida Certified Process Server Act."

**Florida Statute § 48.27 Certified process servers**

- (1) The chief judge of each judicial circuit may establish an approved list of natural persons designated as certified process servers. The chief judge may periodically add to such list the names of those natural persons who have met the requirements for certification provided for in s. 48.29. Each person whose name has been added to the approved list is subject to annual recertification and reappointment by the chief judge of a judicial circuit. The chief judge shall prescribe appropriate forms for application for inclusion on the list of certified process servers. A reasonable fee for the processing of any such application must be charged.
- (2)(a) The addition of a person's name to the list authorizes him or her to serve initial nonenforceable civil process on a person found within the circuit where the process server is certified when a civil action has been filed against such person in the circuit court or in a county court in the state. Upon filing an action in circuit or county court, a person may select from the list for the circuit where the process is to be served one or more certified process servers to serve initial nonenforceable civil process.
- (b) The addition of a person's name to the list authorizes him or her to serve criminal witness subpoenas and criminal summonses on a person found within the circuit where the process server is certified. The state in any proceeding or investigation by a grand jury or any party in a criminal action, prosecution, or proceeding may select from the list for the circuit where the process is to be served one or more certified process servers to serve the subpoena or summons.
- (3) Nothing herein shall be interpreted to exclude a sheriff or deputy or other person appointed by the sheriff pursuant to s. 48.021 from serving process or to exclude a person from appointment by individual motion and order to serve process in any civil action in accordance with Rule 1.070(b) of the Florida Rules of Civil Procedure.

### **Florida Statute § 48.29 Certification of process servers**

- (1) The circuit court administrator and the clerk of the court in each county in the circuit shall maintain the list of process servers approved by the chief judge of the circuit. Such list may, from time to time, be amended or modified to add or delete a person's name in accordance with the provisions of this section or s. 48.31.
- (2) A person seeking the addition of his or her name to the approved list in any circuit shall submit an application to the chief judge of the circuit or to the chief judge's designee on a form prescribed by the court. A reasonable fee for processing the application may be charged.
- (3) A person applying to become a certified process server shall:
  - (a) Be at least 18 years of age;
  - (b) Have no mental or legal disability;
  - (c) Be a permanent resident of the state;
  - (d) Submit to a background investigation, which shall include the right to obtain and review the criminal record of the applicant;
  - (e) Obtain and file with his or her application a certificate of good conduct, which specifies there is no pending criminal case against the applicant and that there is no record of any felony conviction, nor a record of a conviction of a misdemeanor involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years;
  - (f) If prescribed by the chief judge of the circuit, submit to an examination testing his or her knowledge of the laws and rules regarding the service of process. The content of the examination and the passing grade thereon, and the frequency and location at which such examination shall be offered shall be prescribed by the chief judge of the circuit. The examination, if any, shall be offered at least once annually;
  - (g) Execute a bond in the amount of \$5,000 with a surety company authorized to do business in this state for the benefit of any person wrongfully injured by any malfeasance, misfeasance, neglect of duty, or incompetence of the applicant, in connection with his or her duties as a process server. Such bond shall be renewable annually; and
  - (h) Take an oath of office that he or she will honestly, diligently, and faithfully exercise the duties of a certified process server.

- (4) The chief judge of the circuit may, from time to time by administrative order, prescribe additional rules and requirements regarding the eligibility of a person to become a certified process server or to have his or her name maintained on the list of certified process servers.
- (5)(a) An applicant who completes the requirements set forth in this section and whose name the chief judge by order enters on the list of certified process servers shall be designated as a certified process server.
- (b) Each certified process server shall be issued an identification card bearing his or her identification number, printed name, signature and photograph, the seal of the circuit court, and an expiration date. Each identification card shall be renewable annually upon proof of good standing and current bond.
- (6) A certified process server shall place the information required in s. 48.031(5) on the first page of at least one of the processes served. Return of service shall be made by a certified process server on a form which has been reviewed and approved by the court.
- (7)(a) A person may qualify as a certified process server and have his or her name entered on the list in more than one circuit.
- (b) A process server whose name is on a list of certified process servers in more than one circuit may serve process on a person found in any such circuits.
- (c) A certified process server may serve foreign process in any circuit in which his or her name has been entered on the list of certified process servers for that circuit.
- (8) A certified process server may charge a fee for his or her services.

**Florida Statute § 48.31 Removal of certified process servers; false return of service**

- (1) A certified process server may be removed from the list of certified process servers for any malfeasance, misfeasance, neglect of duty, or incompetence, as provided by court rule.
- (2) A certified process server must be disinterested in any process he or she serves; if the certified process server willfully and knowingly executes a false return of service, he or she is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in this state.

## **B. MISCELLANEOUS STATUTES AND RULES RELATING TO SERVICE OF PROCESS**

### **Florida Statute § 30.231 Sheriffs' fees for service of summons, subpoenas, and executions**

(1) The sheriffs of all counties of the state in civil cases shall charge fixed, nonrefundable fees for service of process, according to the following schedule:

(a) All summons or writs except executions: \$40 for each summons or writ to be served.

(b) All writs except executions requiring a levy or seizure of property: \$50 in addition to the \$40 fee as stated in paragraph (a).

(c) Witness subpoenas: \$40 for each witness to be served.

(d) Executions:

1. Forty dollars for processing each writ of execution, regardless of the number of persons involved.

2. Fifty dollars for each levy.

a. A levy is considered made when any property or any portion of the property listed or unlisted in the instructions for levy is seized, or upon demand of the sheriff the writ is satisfied by the defendant in lieu of seizure. Seizure requires that the sheriff take actual possession, if practicable, or, alternatively, constructive possession of the property by order of the court.

b. When the instructions are for levy upon real property, a levy fee is required for each parcel described in the instructions.

c. When the instructions are for levy based upon personal property, one fee is allowed, unless the property is seized at different locations, conditional upon all of the items being advertised collectively and the sale being held at a single location. However, if the property seized cannot be sold at one location during the same sale as advertised, but requires separate sales at different locations, the sheriff may then impose a levy fee for the property and sale at each location.

3. Forty dollars for advertisement of sale under process.

4. Forty dollars for each sale under process.

5. Forty dollars for each deed, bill of sale, or satisfaction of judgment.

(2) For levying on property and for the seizure of persons, the sheriff shall be allowed anticipated expenses necessary for the execution of the process directing such levy or seizure and for the safekeeping of property and persons in the custody of the sheriff. A reasonable cost deposit to cover said fees and expenses in connection with the requested services shall be deposited in advance, by the party requesting the service, with the officer requested to perform the service.

(3) The party requesting service of process must furnish to the sheriff the original process, a certified copy of the process, or an electronic copy of the process, which was signed and certified by the clerk of court, and sufficient copies to be served on the parties receiving the service of process. The party requesting service of process shall provide the sheriff with the best known address where the person may be served. Failure to perfect service at the address provided does not excuse the sheriff from his or her duty to exercise due diligence in locating the person to be served.

(4) All fees collected under paragraphs (1)(a), (b), (c), and (d) shall be nonrefundable and shall be earned when each original request or service of process is made.

(5) All fees collected under the provisions of this section shall be paid monthly into the fine and forfeiture fund of the county.

(6) Fees under this section chargeable to the state or its agencies shall be those fees that were effective under this section on June 30, 2009.

**Florida Statute § 49.011 Service of process by publication; cases in which allowed**

Service of process by publication may be made in any court on any party identified in s. 49.021 in any action or proceeding:

(1) To enforce any legal or equitable lien or claim to any title or interest in real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

(2) To quiet title or remove any encumbrance, lien, or cloud on the title to any real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

(3) To partition real or personal property within the jurisdiction of the court.

(4) For dissolution or annulment of marriage.

(5) For the construction of any will, deed, contract, or other written instrument and for a judicial declaration or enforcement of any legal or equitable right, title, claim, lien, or interest thereunder.

(6) To reestablish a lost instrument or record which has or should have its situs within the jurisdiction of the court.

- (7) In which a writ of replevin, garnishment, or attachment has been issued and executed.
- (8) In which any other writ or process has been issued and executed which places any property, fund, or debt in the custody of a court.
- (9) To revive a judgment by motion or scire facias.
- (10) For adoption.
- (11) In which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.
- (12) In probate or guardianship proceedings in which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.
- (13) For termination of parental rights pursuant to part VIII of chapter 39 or chapter 63.
- (14) For temporary custody of a minor child, under chapter 751.
- (15) To determine paternity, but only as to the legal father in a paternity action in which another man is alleged to be the biological father, in which case it is necessary to serve process on the legal father in order to establish paternity with regard to the alleged biological father.

**Florida Statute § 83.22 Removal of tenant; service**

- (1) After at least two attempts to obtain service as provided by law, if the defendant cannot be found in the county in which the action is pending and either the defendant has no usual place of abode in the county or there is no person 15 years of age or older residing at the defendant's usual place of abode in the county, the sheriff shall serve the summons by attaching it to some part of the premises involved in the proceeding. The minimum time delay between the two attempts to obtain service shall be 6 hours.
- (2) If a landlord causes, or anticipates causing, a defendant to be served with a summons and complaint solely by attaching them to some conspicuous part of the premises involved in the proceeding, the landlord shall provide the clerk of the court with two additional copies of the complaint and two prestamped envelopes addressed to the defendant. One envelope shall be addressed to such address or location as has been designated by the tenant for receipt of notice in a written lease or other agreement or, if none has been designated, to the residence of the tenant, if known. The second envelope shall be addressed to the last known business address of the tenant. The clerk of the court shall immediately mail the copies of the summons and complaint by first-class mail, note the fact of mailing in the docket, and file a certificate

in the court file of the fact and date of mailing. Service shall be effective on the date of posting or mailing, whichever occurs later; and at least 5 days from the date of service must have elapsed before a judgment for final removal of the defendant may be entered.

**Florida Statute § 409.256(4) Notice of proceeding to establish paternity or paternity and child support; order to appear for genetic testing; manner of service; contents**

The Department of Revenue shall commence a proceeding to determine paternity, or a proceeding to determine both paternity and child support, by serving the respondent with a notice as provided in this section. An order to appear for genetic testing may be served at the same time as a notice of the proceeding or may be served separately. A copy of the affidavit or written declaration upon which the proceeding is based shall be provided to the respondent when notice is served. A notice or order to appear for genetic testing shall be served by certified mail, restricted delivery, return receipt requested, or in accordance with the requirements for service of process in a civil action. Service by certified mail is completed when the certified mail is received or refused by the addressee or by an authorized agent as designated by the addressee in writing. If a person other than the addressee signs the return receipt, the department shall attempt to reach the addressee by telephone to confirm whether the notice was received, and the department shall document any telephonic communications. If someone other than the addressee signs the return receipt, the addressee does not respond to the notice, and the department is unable to confirm that the addressee has received the notice, service is not completed and the department shall attempt to have the addressee served personally. For purposes of this section, an employee or an authorized agent of the department may serve the notice or order to appear for genetic testing and execute an affidavit of service. The department may serve an order to appear for genetic testing on a caregiver. The department shall provide a copy of the notice or order to appear by regular mail to the mother and caregiver, if they are not respondents.

(a) A notice of proceeding to establish paternity must state:

1. That the department has commenced an administrative proceeding to establish whether the putative father is the biological father of the child named in the notice.
2. The name and date of birth of the child and the name of the child's mother.
3. That the putative father has been named in an affidavit or written declaration that states the putative father is or may be the child's biological father.
4. That the respondent is required to submit to genetic testing.
5. That genetic testing will establish either a high degree of probability that the putative father is the biological father of the child or that the putative father cannot be the biological father of the child.



6. That if the results of the genetic test do not indicate a statistical probability of paternity that equals or exceeds 99 percent, the paternity proceeding in connection with that child shall cease unless a second or subsequent test is required.

7. That if the results of the genetic test indicate a statistical probability of paternity that equals or exceeds 99 percent, the department may:

a. Issue a proposed order of paternity that the respondent may consent to or contest at an administrative hearing; or

b. Commence a proceeding, as provided in s. 409.2563, to establish an administrative support order for the child. Notice of the proceeding shall be provided to the respondent by regular mail.

8. That, if the genetic test results indicate a statistical probability of paternity that equals or exceeds 99 percent and a proceeding to establish an administrative support order is commenced, the department shall issue a proposed order that addresses paternity and child support. The respondent may consent to or contest the proposed order at an administrative hearing.

9. That if a proposed order of paternity or proposed order of both paternity and child support is not contested, the department shall adopt the proposed order and render a final order that establishes paternity and, if appropriate, an administrative support order for the child.

10. That, until the proceeding is ended, the respondent shall notify the department in writing of any change in the respondent's mailing address and that the respondent shall be deemed to have received any subsequent order, notice, or other paper mailed to the most recent address provided or, if a more recent address is not provided, to the address at which the respondent was served, and that this requirement continues if the department renders a final order that establishes paternity and a support order for the child.

11. That the respondent may file an action in circuit court for a determination of paternity, child support obligations, or both.

12. That if the respondent files an action in circuit court and serves the department with a copy of the petition or complaint within 20 days after being served notice under this subsection, the administrative process ends without prejudice and the action must proceed in circuit court.

13. That, if paternity is established, the putative father may file a petition in circuit court for a determination of matters relating to custody and rights of parental contact.

A notice under this paragraph must also notify the respondent of the provisions in s. 409.2563(4)(m) and (o).

(b) A notice of proceeding to establish paternity and child support must state the requirements of paragraph (a), except for subparagraph (a)7., and must state the requirements of s. 409.2563(4), to the extent that the requirements of s. 409.2563(4) are not already required by and do not conflict with this subsection. This section and s. 409.2563 apply to a proceeding commenced under this subsection.

(c) The order to appear for genetic testing shall inform the person ordered to appear:

1. That the department has commenced an administrative proceeding to establish whether the putative father is the biological father of the child.
2. The name and date of birth of the child and the name of the child's mother.
3. That the putative father has been named in an affidavit or written declaration that states the putative father is or may be the child's biological father.
4. The date, time, and place that the person ordered to appear must appear to provide a sample for genetic testing.
5. That if the person has custody of the child whose paternity is the subject of the proceeding, the person must submit the child for genetic testing.
6. That when the samples are provided, the person ordered to appear shall verify his or her identity and the identity of the child, if applicable, by presenting a form of identification as prescribed by s. 117.05(5)(b) 2. which bears the photograph of the person who is providing the sample or other form of verification approved by the department.
7. That if the person ordered to appear submits to genetic testing, the department shall pay the cost of the genetic testing and shall provide the person ordered to appear with a copy of any test results obtained.
8. That if the person ordered to appear does not appear as ordered or refuses to submit to genetic testing without good cause, the department may take one or more of the following actions:
  - a. Commence proceedings to suspend the driver's license and motor vehicle registration of the person ordered to appear, as provided in s. 61.13016;
  - b. Impose an administrative fine against the person ordered to appear in the amount of \$500; or

c. File a petition in circuit court to establish paternity and obtain a support order for the child and an order for costs against the person ordered to appear, including costs for genetic testing.

9. That the person ordered to appear may contest the order by filing a written request for informal review within 15 days after the date of service of the order, with further rights to an administrative hearing following the informal review.

(d) If the putative father is incarcerated, the correctional facility shall assist the putative father in complying with an administrative order to appear for genetic testing issued under this section.

(e) An administrative order to appear for genetic testing has the same force and effect as a court order.

**Florida Statute § 607.15101 Service of process, notice, or demand on a foreign corporation**

- (1) The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.
- (2) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report if the foreign corporation:
  - (a) Has no registered agent or its registered agent cannot with reasonable diligence be served;
  - (b) Has withdrawn from transacting business in this state under s. 607.1520; or
  - (c) Has had its certificate of authority revoked under s. 607.1531.
- (3) Service is perfected under subsection (2) at the earliest of:
  - (a) The date the foreign corporation receives the mail;
  - (b) The date shown on the return receipt, if signed on behalf of the foreign corporation; or
  - (c) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

- (4) This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation. Process against any foreign corporation may also be served in accordance with chapter 48 or chapter 49.
- (5) Any notice to or demand on a foreign corporation made pursuant to this act may be made in accordance with the procedures for notice to or demand on domestic corporations under s. 607.0504.

**Florida Statute § 624.307 General powers; duties**

- (1) The department and office shall enforce the provisions of this code and shall execute the duties imposed upon them by this code, within the respective jurisdiction of each, as provided by law.
- (2) The department shall have the powers and authority expressly conferred upon it by, or reasonably implied from, the provisions of this code. The office shall have the powers and authority expressly conferred upon it by, or reasonably implied from, the provisions of this code.
- (3) The department or office may conduct such investigations of insurance matters, in addition to investigations expressly authorized, as it may deem proper to determine whether any person has violated any provision of this code within its respective regulatory jurisdiction or to secure information useful in the lawful administration of any such provision. The cost of such investigations shall be borne by the state.
- (4) The department and office may each collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.
- (5) The department and office shall each have such additional powers and duties as may be provided by other laws of this state.
- (6) The department and office may each employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Chief Financial Officer, in the case of department employees, or at the pleasure of the director of the office, in the case of office employees. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter 110. The salaries of the actuaries employed pursuant to this paragraph shall be set in accordance with s. 216.251(2)(a) 5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.
- (7) The office, within existing resources, may expend funds for the professional development of its employees, including, but not limited to, professional dues for employees who are required to be members of professional organizations; examinations leading to professional designations required for employment with the office; training courses and examinations provided through, and to ensure

compliance with, the National Association of Insurance Commissioners; or other training courses related to the regulation of insurance.

(8) The office shall, within existing resources, develop and implement an outreach program for the purpose of encouraging the entry of additional insurers into the Florida market.

(9) Upon receiving service of legal process issued in any civil action or proceeding in this state against any regulated person required to appoint the Chief Financial Officer as its attorney to receive service of all legal process, the Chief Financial Officer, as attorney, may, in lieu of sending the process by registered or certified mail, send the process by any other verifiable means to the person last designated by the regulated person to receive the process.

(10)(a) The Division of Consumer Services shall perform the following functions concerning products or services regulated by the department or office:

1. Receive inquiries and complaints from consumers.
2. Prepare and disseminate information that the department deems appropriate to inform or assist consumers.
3. Provide direct assistance to and advocacy for consumers who request such assistance or advocacy.
4. With respect to apparent or potential violations of law or applicable rules committed by a person or entity licensed by the department or office, report apparent or potential violations to the office or to the appropriate division of the department, which may take any additional action it deems appropriate.
5. Designate an employee of the division as the primary contact for consumers on issues relating to sinkholes.

(b) Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint. The division may impose an administrative penalty for failure to comply with this paragraph of up to \$2,500 per violation upon any entity licensed by the department or the office and \$250 for the first violation, \$500 for the second violation, and up to \$1,000 for the third or subsequent violation upon any individual licensed by the department or the office.

(c) The department may adopt rules to administer this subsection.

- (d) The powers, duties, and responsibilities expressed or granted in this subsection do not limit the powers, duties, and responsibilities of the department, the Financial Services Commission, the Office of Insurance Regulation, or the Office of Financial Regulation as otherwise provided by law.

**Florida Statute § 624.422 Service of process; appointment of Chief Financial Officer as process agent**

- (1) Each licensed insurer, whether domestic, foreign, or alien, shall be deemed to have appointed the Chief Financial Officer and her or his successors in office as its attorney to receive service of all legal process issued against it in any civil action or proceeding in this state; and process so served shall be valid and binding upon the insurer.
- (2) Prior to its authorization to transact insurance in this state, each insurer shall file with the department designation of the name and address of the person to whom process against it served upon the Chief Financial Officer is to be forwarded. The insurer may change the designation at any time by a new filing.
- (3) Service of process upon the Chief Financial Officer as the insurer's attorney pursuant to such an appointment shall be the sole method of service of process upon an authorized domestic, foreign, or alien insurer in this state.

**Florida Statute § 624.423 Serving process**

- (1) Service of process upon the Chief Financial Officer as process agent of the insurer (under s. 624.422) shall be made by serving a copy of the process upon the Chief Financial Officer or upon her or his assistant, deputy, or other person in charge of her or his office. Upon receiving such service, the Chief Financial Officer shall retain a record copy and promptly forward one copy of the process by registered or certified mail to the person last designated by the insurer to receive the same, as provided under s. 624.422(2). For purposes of this section, records may be retained as paper or electronic copies.
- (2) Where process is served upon the Chief Financial Officer as an insurer's process agent, the insurer shall not be required to answer or plead except within 20 days after the date upon which the Chief Financial Officer mailed a copy of the process served upon her or him as required by subsection (1).
- (3) Process served upon the Chief Financial Officer and copy thereof forwarded as in this section provided shall for all purposes constitute valid and binding service thereof upon the insurer.

**Florida Statute § 655.0201 Service of process, notice, levy, or demand on financial institutions**

- (1) Notwithstanding any other Florida law, this section establishes the proper location for service of process upon a financial institution for all types of service of process to be made on a financial institution.
- (2) A financial institution authorized by federal or state law to transact business in this state may designate with the Department of State a place or registered agent located within the state as the financial institution's sole location or agent for service of process, notice, levy, or demand. Any such place or registered agent so designated must be open and available for service of process during regular business hours on regular business days, which, at a minimum, is any time between the hours of 9 a.m. and 5 p.m. local time, on Mondays through Fridays, excluding federal and Florida holidays. After a financial institution designates a place or registered agent within this state, such place or registered agent is the sole location for service of process, including service for actions related to garnishment, levy, injunctions, lawsuits, and the attachment of safety deposit boxes, in accordance with chapters 60, 76, and 77, and the Florida Rules of Civil Procedure.
- (3)(a) If a financial institution has no registered agent or service cannot be made in accordance with subsection (2), service may be made to any officer, director, or business agent of the financial institution at its principal place of business or at any other branch, office, or place of business in the state.
- (b) Notwithstanding subsection (2), any service required or authorized to be made by the Office of Financial Regulation under the financial institutions codes may be made to any officer, director, or business agent of the financial institution at its principal place of business or any other branch, office, or place of business in the state as set forth in s. 655.031(2).

**Florida Statute § 718.50155 Service of process**

- (1) In addition to the methods of service provided for in the Florida Rules of Civil Procedure and the Florida Statutes, service may be made and shall be binding upon the defendant or respondent if:
  - (a) The division, which is acting as the petitioner or plaintiff, immediately sends a copy of the process and of the pleading by certified mail to the defendant or respondent at his or her last known address; and
  - (b) The division files an affidavit of compliance with this section on or before the return date of the process or within the time set by the court.
- (2) If any person, including any nonresident of this state, allegedly engages in conduct prohibited by this chapter, or any rule or order of the division, and

has not filed a consent to service of process, and personal jurisdiction over him or her cannot otherwise be obtained in this state, the director shall be authorized to receive service of process in any noncriminal proceeding against that person or his or her successor which grows out of the conduct and which is brought by the division under this chapter or any rule or order of the division. The process shall have the same force and validity as if personally served. Notice shall be given as provided in subsection (1).

#### **Florida Statute § 721.265 Service of process**

- (1) In addition to the methods of service provided for in the Florida Rules of Civil Procedure and the Florida Statutes, service of process may be made by delivering a copy of the process to the director of the division, which shall be binding upon the defendant or respondent, if:
  - (a) The plaintiff, which may be the division, immediately sends a copy of the process and the pleading by certified mail to the defendant or respondent at her or his last known address.
  - (b) The plaintiff files an affidavit of compliance with this section on or before the return date of the process or within the time set by the court.
- (2) If any person, including any nonresident of this state, allegedly engages in conduct prohibited by this chapter, or by any rule or order of the division, and has not filed a consent to service of process, and personal jurisdiction over her or him cannot otherwise be obtained in this state, the director shall be authorized to receive service of process in any noncriminal proceeding against that person or her or his successor which grows out of the conduct and which is brought under this chapter or any rule or order of the division. The process shall have the same force and validity as if personally served. Notice shall be given as provided in subsection (1).
- (3) In addition to any means recognized by law, substituted service of process on timeshare purchasers in receivership proceedings may be made in accordance with s. 721.85(1).

#### **Florida Statute § 721.85 Service to notice address or on registered agent**

(1) Service of process for a foreclosure proceeding involving a timeshare interest may be made by any means recognized by law. In addition, substituted service on an obligor who has appointed a registered agent under s. 721.84 may be made on such registered agent at the registered office. Also, when using s. 48.194 where in rem or quasi in rem relief only is sought, such service of process provisions are modified in connection with a foreclosure proceeding against a timeshare interest to provide that:

- (a) Such service of process may be made on any person whether the person is located inside or outside this state, by certified mail, registered mail, or permitted delivery



service, return receipt requested, addressed to the person to be served at the notice address, or on the person's registered agent duly appointed under s. 721. 84, at the registered office; and

(b) Service shall be considered obtained upon the signing of the return receipt by any person at the notice address, or by the registered agent.

(2) The current owner and the mortgagor of a timeshare interest must promptly notify the owners' association and the mortgagee of any change of address.

(3) Substituted notice under s. 721.855 or s. 721.856 for any party who has appointed a registered agent under s. 721.84 may be made on such registered agent at the registered office.

### **Florida Statute § 1000.36 Interstate Compact on Educational Opportunity for Military Children**

#### ARTICLE XIII

#### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.--

C. The Interstate Commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact, or its adopted rules.

### **FLORIDA RULES OF CIVIL PROCEDURE**

#### **Rule 1.070. Process**

- (a) **Summons; Issuance.** Upon the commencement of the action, summons or other process authorized by law shall be issued forthwith by the clerk or judge under the clerk's or the judge's signature and the seal of the court and delivered for service without praecipe.
- (b) **Service; By Whom Made.** Service of process may be made by an officer authorized by law to serve process, but the court may appoint any competent person not interested in the action to serve the process. When so appointed, the person serving process shall make proof of service by affidavit promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service shall not affect the validity of the service. When any process is returned not executed or returned improperly executed for any defendant, the party causing its issuance shall be entitled to such additional process against the unserved party as is required to effect service.
- (c) **Service; Numerous Defendants.** If there is more than 1 defendant, the clerk or judge shall issue as many writs of process against the several defendants

as may be directed by the plaintiff or the plaintiff's attorney.

- (d) **Service by Publication.** Service of process by publication may be made as provided by statute.
- (e) **Copies of Initial Pleading for Persons Served.** At the time of personal service of process a copy of the initial pleading shall be delivered to the party upon whom service is made. The date and hour of service shall be endorsed on the original process and all copies of it by the person making the service. The party seeking to effect personal service shall furnish the person making service with the necessary copies. When the service is made by publication, copies of the initial pleadings shall be furnished to the clerk and mailed by the clerk with the notice of action to all parties whose addresses are stated in the initial pleading or sworn statement.
- (f) **Service of Orders.** If personal service of a court order is to be made, the original order shall be filed with the clerk, who shall certify or verify a copy of it without charge. The person making service shall use the certified copy instead of the original order in the same manner as original process in making service.
- (g) **Fees; Service of Pleadings.** The statutory compensation for making service shall not be increased by the simultaneous delivery or mailing of the copy of the initial pleading in conformity with this rule.
- (h) **Pleading Basis.** When service of process is to be made under statutes authorizing service on nonresidents of Florida, it is sufficient to plead the basis for service in the language of the statute without pleading the facts supporting service.
- (i) **Service of Process by Mail.** A defendant may accept service of process by mail.
  - (1) Acceptance of service of a complaint by mail does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.
  - (2) A plaintiff may notify any defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request shall:
    - (A) be in writing and be addressed directly to the defendant, if an individual, or to an officer or managing or general agent of the defendant or other agent authorized by appointment or law to receive service of process;

- (B) be dispatched by certified mail, return receipt requested;
  - (C) be accompanied by a copy of the complaint and shall identify the court in which it has been filed;
  - (D) inform the defendant of the consequences of compliance and of failure to comply with the request;
  - (E) state the date on which the request is sent;
  - (F) allow the defendant 20 days from the date on which the request is received to return the waiver, or, if the address of the defendant is outside of the United States, 30 days from the date on which it is received to return the waiver; and
  - (G) provide the defendant with an extra copy of the notice and request, including the waiver, as well as a prepaid means of compliance in writing.
- (3) If a defendant fails to comply with a request for waiver within the time provided herein, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure is shown.
- (4) A defendant who, before being served with process, timely returns a waiver so requested is not required to respond to the complaint until 60 days after the date the defendant received the request for waiver of service. For purposes of computing any time prescribed or allowed by these rules, service of process shall be deemed effected 20 days before the time required to respond to the complaint.
- (5) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in subdivision (4) above, as if a summons and complaint had been served at the time of filing the waiver, and no further proof of service shall be required.
- (j) **Summons; Time Limit.** If service of the initial process and initial pleading is not made upon a defendant within 120 days after filing of the initial pleading directed to that defendant the court, on its own initiative after notice or on motion, shall direct that service be effected within a specified time or shall dismiss the action without prejudice or drop that defendant as a party; provided that if the plaintiff shows good cause or excusable neglect for the failure, the court shall extend the time for service for an appropriate period. When a motion for leave to amend with the attached proposed amended complaint is filed, the 120-day period for service of amended complaints on the new party or parties shall begin upon the entry of an order granting leave to amend. A dismissal under this subdivision shall not be considered a

voluntary dismissal or operate as an adjudication on the merits under rule 1.420(a)(1).

### **Rule 1.080. Service of Pleadings and Papers**

**(a) Service.** Every pleading subsequent to the initial pleading, all orders, and every other document filed in the action must be served in conformity with the requirements of Florida Rule of Judicial Administration 2.516.

**(b) Filing.** All documents shall be filed in conformity with the requirements of Florida Rule of Judicial Administration 2.525.

**(c) Writing and written defined.** Writing or written means a document containing information, an application, or a stipulation.

## **FLORIDA RULES OF JUDICIAL ADMINISTRATION**

### **Rule 2.516. Service of Pleadings and Documents**

**(a) Service; When Required.** Unless the court otherwise orders, or a statute or supreme court administrative order specifies a different means of service, every pleading subsequent to the initial pleading and every other document filed in any court proceeding, except applications for witness subpoenas and documents served by formal notice or required to be served in the manner provided for service of formal notice, must be served in accordance with this rule on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them must be served in the manner provided for service of summons.

**(b) Service; How Made.** When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) *Service by Electronic Mail (“e-mail”).* All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

(A) *Service on Attorneys.* Upon appearing in a proceeding, an attorney must designate a primary e-mail address and may designate no more than two secondary e-mail addresses. Thereafter, service must be directed to all designated e-mail addresses in that proceeding. Every document filed by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail

addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

(B) Exception to E-mail Service on Attorneys. Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2) of this rule.

(C) Service on and by Parties Not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(1) of this rule. If a party not represented by an attorney does not designate an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2) of this rule.

(D) Time of Service. Service by e-mail is complete on the date it is sent.

(i) If the sender learns that the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail, or by a means authorized by subdivision (b)(2) of this rule.

(ii) E-mail service is treated as service by mail for the computation of time.

(iii) E-mail service, including e-Service, is treated as service by mail for the computation of time.

(E) Format of E-mail for Service. Service of a document by e-mail is made by an e-mail sent to all addresses designated by the attorney or party with either (a) a copy of the document in PDF format attached or (b) a link to the document on a website maintained by a clerk.

(i) All documents served by e-mail must be sent by an e-mail message containing a subject line beginning with the words "SERVICE OF COURT DOCUMENT" in all capital letters, followed by the case number of the proceeding in which the documents are being served.

(ii) The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the name and telephone number of the person required to serve the document.

(iii) Any document served by e-mail may be signed by any of the "/s/," "/s," or "s/" formats.

- (iv) Any e-mail which, together with its attached documents, exceeds the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court, must be divided and sent as separate e-mails, no one of which may exceed the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court and each of which must be sequentially numbered in the subject line.

(2) *Service by Other Means.* In addition to, and not in lieu of, service by e-mail, service may also be made upon attorneys by any of the means specified in this subdivision. If a document is served by more than one method of service, the computation of time for any response to the served document shall be based on the method of service that provides the shortest response time. Service on and by all parties who are not represented by an attorney and who do not designate an e-mail address, and on and by all attorneys excused from e-mail service, must be made by delivering a copy of the document or by mailing it to the party or attorney at their last known address or, if no address is known, by leaving it with the clerk of the court. Service by mail is complete upon mailing. Delivery of a copy within this rule is complete upon:

(A) handing it to the attorney or to the party,

(B) leaving it at the attorney's or party's office with a clerk or other person in charge thereof,

(C) if there is no one in charge, leaving it in a conspicuous place therein,

(D) if the office is closed or the person to be served has no office, leaving it at the person's usual place of abode with some person of his or her family above 15 years of age and informing such person of the contents, or

(E) transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy must also be served by any other method permitted by this rule. Facsimile service occurs when transmission is complete.

(F) Service by delivery shall be deemed complete on the date of the delivery.

**(c) Service; Numerous Defendants.** In actions when the parties are unusually numerous, the court may regulate the service contemplated by these rules on motion or on its own initiative in such manner as may be found to be just and reasonable.

**(d) Filing.** All documents must be filed with the court either before service or immediately thereafter, unless otherwise provided for by general law or other rules. If the original of any bond or other document required to be an original is not placed in the court file or deposited with the clerk, a certified copy must be so placed by the clerk.

**(e) Filing Defined.** The filing of documents with the court as required by these rules must be made by filing them with the clerk in accordance with rule 2.525, except that the judge may permit documents to be filed with the judge, in which event the judge must note the filing date before him or her on the documents and transmit them to the clerk. The date of filing is that shown on the face of the document by the judge's notation or the clerk's time stamp, whichever is earlier.

**(f) Certificate of Service.** When any attorney certifies in substance:

“I certify that a copy hereof has been furnished to (here insert name or names and addresses used for service) by (e-mail) (delivery) (mail) (fax) on ..... (date) .....

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Attorney”

the certificate is taken as prima facie proof of such service in compliance with this rule.

**(g) Service by Clerk.** When the clerk is required to serve notices and other documents, the clerk may do so by e-mail as provided in subdivision (b)(1) or by any other method permitted under subdivision (b)(2). Service by a clerk is not required to be by e-mail.

**(h) Service of Orders.**

(1) A copy of all orders or judgments must be transmitted by the court or under its direction to all parties at the time of entry of the order or judgment. No service need be made on parties against whom a default has been entered except orders setting an action for trial and final judgments that must be prepared and served as provided in subdivision (h)(2). The court may require that orders or judgments be prepared by a party, may require the party to furnish the court with stamped, addressed envelopes for service of the order or judgment, and may require that proposed orders and judgments be furnished to all parties before entry by the court of the order or judgment. The court may serve any order or judgment by e-mail to all attorneys who have not been excused from e-mail service and to all parties not represented by an attorney who have designated an e-mail address for service.

(2) When a final judgment is entered against a party in default, the court must mail a conformed copy of it to the party. The party in whose favor the judgment is entered must furnish the court with a copy of the judgment, unless it is prepared by the court, with the address of the party to be served. If the address is unknown, the copy need not be furnished.

(3) This subdivision is directory and a failure to comply with it does not affect the order or judgment, its finality, or any proceedings arising in the action.

### **Rule 2.525. Electronic Filing**

**(a) Definition.** “Electronic transmission of documents” means the sending of information by electronic signals to, by or from a court or clerk, which when received can be transformed and stored or transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD-ROM, flash drive, other electronic data storage system, server, case maintenance

system (“CM”), electronic court filing (“ECF”) system, statewide or local electronic portal (“e-portal”), or other electronic record keeping system authorized by the supreme court in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission of documents includes electronic mail (“e-mail”) and any internet-based transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.

**(b) Application.** Any court or clerk may accept the electronic transmission of documents for filing and may send documents by electronic transmission after the clerk, together with input from the chief judge of the circuit, has obtained approval of procedures, programs, and standards for electronic filing from the supreme court (“ECF Procedures”). All ECF Procedures must comply with the then-current e-filing standards, as promulgated by the supreme court in Administrative Order No. AOSC09-30, or subsequent administrative order.

**(c) Documents Affected.**

(1) All documents that are court records, as defined in rule 2.430(a)(1), must be filed by electronic transmission, provided that:

(A) the clerk has the ability to accept and retain such documents;

(B) the clerk or the chief judge of the circuit has requested permission to accept documents filed by electronic transmission; and

(C) the supreme court has entered an order granting permission to the clerk to accept documents filed by electronic transmission.

(2) The official court file is a set of electronic documents stored in a computer system maintained by the clerk, together with any supplemental nonelectronic documents and materials authorized by this rule. It consists of:

(A) documents filed by electronic transmission under this rule;

(B) documents filed in paper form under subdivision (d) that have been converted to electronic form by the clerk;

(C) documents filed in paper form before the effective date of this rule that have been converted to electronic form by the clerk;

(D) documents filed in paper form before the effective date of this rule or under subdivision (d), unless such documents are converted into electronic form by the clerk;

(E) electronic documents filed pursuant to subdivision (d)(5); and

(F) materials and documents filed pursuant to any rule, statute or court order that either cannot be converted into electronic form or are required to be maintained in paper form.



(3) The documents in the official court file are deemed originals for all purposes except as otherwise provided by statute or rule.

(4) Any document in paper form submitted under subdivision (d) is filed when it is received by the clerk or court and the clerk shall immediately thereafter convert any filed paper document to an electronic document. "Convert to an electronic document" means optically capturing an image of a paper document and using character recognition software to recover as much of the document's text as practicable and then indexing and storing the document in the official court file.

(5) Any storage medium submitted under subdivision (d)(5) is filed when received by the clerk or court and the clerk shall immediately thereafter transfer the electronic documents from the storage device to the official court file.

(6) If the filer of any paper document authorized under subdivision (d) provides a self-addressed, postage-paid envelope for return of the paper document after it is converted to electronic form by the clerk, the clerk shall place the paper document in the envelope and deposit it in the mail. Except when a paper document is required to be maintained, the clerk may recycle any filed paper document that is not to be returned to the filer.

(7) The clerk may convert any paper document filed before the effective date of this rule to an electronic document. Unless the clerk is required to maintain the paper document, if the paper document has been converted to an electronic document by the clerk, the paper document is no longer part of the official court file and may be removed and recycled.

**(d) Exceptions.** Paper documents and other submissions may be manually submitted to the clerk or court:

(1) when the clerk does not have the ability to accept and retain documents by electronic filing or has not had ECF Procedures approved by the supreme court;

(2) for filing by any self-represented party or any self-represented nonparty unless specific ECF Procedures provide a means to file documents electronically. However, any self-represented nonparty that is a governmental or public agency and any other agency, partnership, corporation, or business entity acting on behalf of any governmental or public agency may file documents by electronic transmission if such entity has the capability of filing document electronically;

(3) for filing by attorneys excused from e-mail service in accordance with rule 2.516(b);

(4) when submitting evidentiary exhibits or filing non-documentary materials;

(5) when the filing involves documents in excess of the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court. For such filings, documents may be transmitted using an electronic storage medium that the clerk has the ability to accept, which may include a CD-ROM, flash drive, or similar storage medium;

- (6) when filed in open court, as permitted by the court;
- (7) when paper filing is permitted by any approved statewide or local ECF procedures; and
- (8) if any court determines that justice so requires.

**(e) Service.**

(1) Electronic transmission may be used by a court or clerk for the service of all orders of whatever nature, pursuant to rule 2.516(h), and for the service of any documents pursuant to any ECF Procedures, provided the clerk, together with input from the chief judge of the circuit, has obtained approval from the supreme court of ECF Procedures containing the specific procedures and program to be used in transmitting the orders and documents. All other requirements for the service of such orders must be met.

(2) Any document electronically transmitted to a court or clerk must also be served on all parties and interested persons in accordance with the applicable rules of court.

**(f) Administration.**

(1) Any clerk who, after obtaining supreme court approval, accepts for filing documents that have been electronically transmitted must:

(A) provide electronic or telephonic access to its equipment, whether through an e-portal or otherwise, during regular business hours, and all other times as practically feasible;

(B) accept electronic transmission of the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court; and

(C) accept filings in excess of the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court by electronic storage device or system, which may include a CD-ROM, flash drive, or similar storage system.

(2) All attorneys, parties, or other persons using this rule to file documents are required to make arrangements with the court or clerk for the payment of any charges authorized by general law or the supreme court before filing any document by electronic transmission.

(3) The filing date for an electronically transmitted document is the date and time that such filing is acknowledged by an electronic stamp or otherwise, pursuant to any procedure set forth in any ECF Procedures approved by the supreme court, or the date the last page of such filing is received by the court or clerk.

(4) Any court or clerk may extend the hours of access or increase the page or size limitations set forth in this subdivision.

**(g) Accessibility.** All documents transmitted in any electronic form under this rule must comply with the accessibility requirements of Florida Rule of Judicial Administration 2.526.

# Florida Supreme Court Standards for Electronic Access to the Courts

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Adopted June 2009  
Adopted modifications November 2016

**Version 17.0**

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## **1.0. PORTAL TECHNOLOGY STANDARDS**

The Florida Court's E-Filing Portal ("Portal") is governed by the Florida Courts E-Filing Authority. The Portal provides a single statewide point of access for filing court records and interfaces with other existing statewide information systems.

## **2.0 PORTAL FUNCTIONALITY**

### **2.1. E-Portal Minimal Functionality**

1. Single statewide login.
2. Process for non-attorneys and for self-represented users to access the system.
3. Uniform authentication method.
4. Single point of access for filing and service.
5. Consolidated electronic notification.
6. Process for local validation.
7. Automated interface with other e-filing systems.
8. Utilize the current XML ECF Standards.
9. Accommodate bi-directional transmissions to and from courts.
10. Integrate with other established statewide systems.
11. Accept electronic forms of payment.
12. All court based e-filing processes will use Internet-based open standards.

## **3.0 ELECTRONIC TRANSMISSION AND FILING OF DOCUMENTS**

With the establishment of the Florida Courts E-Filing Portal, the Florida Courts have a single state-wide e-filing system. On June 21, 2012, the Supreme Court issued opinions approving recommendations to require e-filing by attorneys and e-service, through a phased in implementation.

### **3.1. E-Filing Standards**

#### **3.1.1. Size of Filing**

A single submission, whether consisting of a single document or multiple documents, shall not exceed 50 megabytes (50 MB) in size.

#### **3.1.2. Document Format**

All electronically filed documents should be legibly typewritten or printed on only one side of letter sized (8 ½ by 12 inch) paper; should have one inch margins on all sides and on all pages and pages should be numbered consecutively; should be filed in a format capable of being electronically searched and printed; should be filed in black and white; reduction of legal-size (8 ½ by 14 inches) documents to letter size (8 ½ by 12 inches) is prohibited; documents that are to be recorded in the public records of any county shall leave a 3-inch by 3-inch space at the top right-hand corner of the first page and a 1-inch

by 3-inch space at the top right-hand corner on each subsequent page blank and reserved for use by the clerk of court; Optical Character Recognition (“OCR”) scanned documents should be at a resolution of 300 DPI as defined in the State of Florida Electronic Records and Records Management Practices; at all times possible, documents should be electronically signed as defined in Section 2.8; multiple pleadings, motions, etc., should not be combined into one single file, but rather each individual document should be uploaded via the Portal document submission process and should comply with accessibility requirements set forth in section 2.6. Deviation from these guidelines may result in the submitted filing being moved to the Pending Queue by the Clerk with the filer being notified via email and requested to correct the issue(s) with the document(s) and resubmit the filing.

### **3.1.3. Document Rendering**

The clerk shall be able to render document images in searchable PDF format for viewer interfaces where the judicial viewer does not already provide searchable documents.

### **3.1.4. Archiving**

Electronic documents shall be archived in a manner that allows for presenting the information in the future without degradation, loss of content, or issues with software compatibility relative to the proper rendering of electronic documents.

### **3.1.5. File Name Standards**

The following special characters are not allowed in a file name:

- Quotation mark (")
- Number sign (#)
- Percent (%)
- Ampersand (&)
- Asterisk (\*)
- Colon (:)
- Angle brackets (less than, greater than) (<>)
- Question mark (?)
- Backslash (\)
- Slash (/)
- Braces (left and right) ({ })
- Pipe (|)
- Tilde (~)

File names may not end with any of the following strings:

- .files
- \_files
- -Dateien
- \_fichiers
- \_bestanden
- \_file
- \_archivos



- -filer
- \_tiedostot
- \_pliki
- \_soubory
- \_elemei
- \_ficheiros
- \_arquivos
- \_dosyalar
- \_datoteke
- \_fixters
- \_failid
- \_fails
- \_bylos
- \_fajlovi
- \_fitxategiak

In addition, file names cannot exceed 110 bytes in length, including spaces. Spaces must be counted as three (3) bytes each.

This required information will be submitted in a uniform e-filing envelope, in compliance with current rules of procedure. The Florida Courts Technology Commission (FCTC) has established, and shall update as necessary, the requirements for the e-filing envelopes for each division and court type. The e-filing envelope will be maintained on the e-filing system of each court. These requirements can be found at <http://www.flcourts.org/resources-and-services/court-technology/efiling/>.

The e-filing envelope shall be designed to collect the data elements in .XML format that support the filing, indexing, docketing, calendaring, accounting, reporting, document development, case management and other necessary functions of the court. In an effort to reduce redundant data entry, emphasis is placed on providing the ability to extract text from the electronic submission.

### **3.1.6. Time Stamp**

Date and time stamp formats must include a single line detailing the name of the court or Portal and shall not include clerk seals. Date stamps must be 8 numerical digits separated by slashes with 2 digits for the month, 2 digits for the date, and 4 digits for the year.

Time stamps must be formatted in 12 hour time frames with a.m. or p.m. included. The font size and type must comply with The Americans with Disabilities Act requirements.

The Portal's official file stamp date and time shall be affixed in the upper left hand corner. The Florida Supreme Court and District Courts of Appeal stamps shall be on the left margin readable horizontally. Any administrative agency stamp shall be in the right margin and readable horizontally. The clerk's stamp for circuit and county courts shall be in the bottom of the document.

### **3.1.7. Electronic Notification of Receipt**

All submissions must generate an acknowledgment message that is transmitted to the filer to indicate that the portal has received the document.

At a minimum the acknowledgment must include the date and time the submission was received which is the official filing date/time.

### **3.1.8. Review by Clerk of Court**

When information has been submitted electronically to the Clerk of Court's Office, via the Florida Courts E-Filing Portal, the Clerk of Court will review the filed document and determine whether it contains the required information for placement into the clerk's case maintenance system. If, during the local document receiving process a determination is made that the filed document conflicts with any court rules or standards, then the clerk shall place the filed document into a pending queue. A filing may be placed in a pending queue for any reason that prevents the filing from being accepted into the clerk's case maintenance system, e.g. documents that cannot be associated with a pending case; a corrupt file<sup>1</sup>; or an incorrect filing fee.

Once placed in a pending queue, the clerk shall attempt to contact the filer and correct the identified issue(s). The filing will remain in a pending queue for no more than 5 (five) business days, after which time the filing will be docketed, as filed, and processed for judicial review.

### **3.1.9. Security**

The Portal shall provide initial screening and protection against unauthorized network intrusions, viruses, and attacks for all filings. The Portal shall be isolated from other court networks or applications. Software and security devices such as antivirus software, firewalls, access control lists, filters and monitoring software must be used by the Portal to provide this initial protection to court networks.

Computers that receive and accept filings from the Portal must be protected against unauthorized network intrusion, viruses, and attacks. These computers interface with the local CMS to accept e-filings. Software and security devices such as antivirus software, firewalls, access control lists, filters, and monitoring software must be used to protect the local court systems.

### **3.1.10. Filing Process and Payment**

The Portal shall support both an interactive filing process and a batch (non-interactive) process. The Portal shall support electronic payment methods.

### **3.1.11. Transmission Envelope**

Any electronic document or information submitted through the Portal with an initial filing or any subsequent case action must be transmitted using a data structure that

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<sup>1</sup> Document(s) that cannot be opened or read

provides universal access to the court file. A submission, whether consisting of a single document or multiple documents, shall not exceed 50 megabytes (50 MB) in size.

The Portal shall be capable of providing a validation of the submission to detect any discrepancies (e.g., incomplete data or unacceptable document type) or other problems (e.g., viruses) prior to being received by the Portal. Where possible, the filer will be notified immediately if the Portal detects discrepancies or other problems with the submission, based on technical issues. The validation rules will be specific to the type of submission (for example: new case initiation as opposed to filings in an existing case).

### **3.1.12. Court Control of Court Documents - Data Storage**

The official copy of court data must be physically located in Florida and in the custody of the clerks of court. Copies of data may be stored within or outside the State of Florida for the purposes of disaster recovery of business continuity.

### **3.1.13. Requirements for Individual Filers**

#### **3.1.13.1 Embedded Hyperlink**

Hyperlinks embedded within a filing should refer only to information within the same document, or to external documents or information sources that are reasonably believed to be trustworthy and stable over long periods of time. Hyperlinks should not be used to refer to external documents or information sources likely to change.

#### **3.1.13.2 Exhibits**

Each exhibit accompanying a document shall be separately attached and denominated with a title referencing the document to which it relates. Each exhibit shall conform to the filing size limitation in Section 3.1.1. To the extent an exhibit exceeds the size limitation each portion shall be separately described as being a portion of the whole exhibit (e.g., Exhibit A, Part 1 of 5, Part 2 of 5, etc.).

Each documentary exhibit marked for identification or admitted into evidence at trial shall be treated in accordance with Florida Rule of Judicial Administration 2.525(d)(4) or (6), and then converted by the clerk and stored electronically in accordance with rule 2.525(a).

#### **3.1.13.3 Confidentiality and Sensitive Information**

The Portal shall provide the following warning before documents are submitted through the Portal, “WARNING: As an attorney or self-represented filer, you are responsible to protect confidential information under Florida Rules of Judicial Administration [2.420](#) and [2.425](#). Before you file, please ensure that you have complied with these rules, including the need to complete a Notice of Confidential Information [form](#) or motion required under Rule 2.420 regarding confidential information. Your failure to comply with these rules may subject you to sanctions.”

#### **3.1.13.4 Emergency Filing**

The Portal must provide a mechanism to indicate that a filing is an emergency.

#### **3.1.14. Adding a Party**

The Portal shall facilitate the addition of parties after the initial pleading is filed.

#### **3.1.15. Docket Numbering**

- At a minimum, the local clerk CMS would assign and store a sequence number for each docket entry that contains a document on each case. The sequence number would be unique only within each case. For example, each case will start with 1, 2, 3, etc. and increment by 1.
- The sequence number would be displayed on each document/docket display screen in the local clerk CMS and any associated access systems (websites, etc.)
- Each assigned document/docket sequence number would need to remain static for each case once assigned. If documents/dockets are inserted, then the sequence numbers would not necessarily align with the dates for the documents/docket. As long as they are unique within each case this would be allowed.
- The sequence number may be implemented on a “go-forward” basis if necessary; sequence numbers are not required for historical documents/dockets.
- The sequence numbers are only assigned and stored in the local clerk CMS. The sequence numbers would not be included in the interface between the Portal and the local clerk CMS and would not be provided to the filer as part of the e-filing notification process.
- This requirement does not apply to legacy CMS applications which have a known end date.

### **3.2. TECHNICAL FAILURE**

#### **3.2.1. Retransmission of Electronic Filing**

If, within 24 hours after filing information electronically, the filer discovers that the version of the document available for viewing through the Electronic Case Filing System is incomplete, garbled or otherwise does not depict the document as transmitted, the filer shall notify the Clerk of Court immediately and retransmit the filing if necessary.

#### **3.2.2. System Availability and Recovery Planning**

Computer systems that are used for e-filings must protect electronically filed documents against system and security failures during periods of system availability. Additionally, contingencies for system failures and disaster recovery mechanisms must be established. Scheduled downtime for maintenance and updates should be planned, and a notification shall be provided to filers in advance of the outage. Planned outages shall occur outside normal business hours as determined by the Chief Judicial Administrative Officer of the Court. E-filing systems shall comply with the security and backup policies created by the Florida Courts Technology Commission.

## **Plan 1: Contingency Plan**

Timeframe: Immediate - during normal working hours.

Scope: Localized system failures while court is still open and operational. This plan will also be put into operation when Continuity of Operations (“COOP”) and Disaster Plans are implemented.

Operational Levels: Levels of operation will be temporarily limited and may be conducted in electronic or manual processes. Since court will still be open, this plan must address how documents will be received while the system is down.

Objectives:

- Allow the court to continue with minimum delays by providing a temporary alternate solution for access to court files.
- Conduct tests to verify the restoration process.
- Have local and local off site backup of the operating system, application software, and user data available for immediate recovery operations.
- Identify areas where redundancy is required to reduce downtime, and provide for “hot” standby equipment that can be utilized in the event the Contingency Plan is activated.

## **Plan 2: Business Continuity/Disaster Recovery**

Timeframe: Disaster dependent, varies.

Scope: Declared disasters either local or regional that impact the geographic area.

Operational Levels: Temporarily unavailable or limited until facilities are deemed functional or alternate facilities can be established. Mission Essential Functions as defined in the Supreme Court’s COOP for the affected area must be addressed in the designated priorities and timeframes.

Objectives:

- Allow court operations to recover in the existing location or alternate facility.
- Provide cooperative efforts with impacted entities to establish access to court files and allow for the continuance of court proceedings.
- Provide in the Contingency Plan a temporary method to meet or exceed Mission Essential Functions identified in the Supreme Court’s COOP.
- Provide another tier level of recoverability by having a backup copy of the operating system, application software, and user data in a protected environment outside of the local area not subject to the same risks as the primary location for purposes of recovery according to standards approved by the FCTC.
- This plan may provide another out-of-state tier for data backup provided that the

non-local in-state tier is established.

### **3.3. ADA AND TECHNOLOGY COMPLIANCE**

All Court technology must comply with the Americans With Disabilities Act (“ADA”).

### **3.4. ELECTRONIC PROCESSES - JUDICIAL**

The integrity of and efficient delivery of information to the judiciary are primary goals. Any electronic processes that involve the judiciary must be approved by the judiciary prior to implementation.

#### **3.4.1. Delivery of Electronic Case Files**

An electronic case file being provided to the court should meet or exceed the capabilities and ease of use provided by a paper case file. Electronic documents shall be available to court officers and personnel in a manner that provides timely and easy access, and shall not have a negative operational impact on the court. The court shall have the opportunity to review and approve any changes to the current business process before the system may be implemented.

Any system that intends to deliver electronic files instead of paper files in part or in total that impacts the judiciary, that involves electronic workflow, functionality, and electronic document management service must be approved by the judiciary before the paper files may be discontinued. The Clerk of Court must be able to deliver paper case files upon request until the electronic case file delivery system is fully accepted by the judiciary.

The electronic file created by the Clerk of Court shall be made available and delivered to the judiciary in a manner that provides improved workflow and document management service to the judiciary and court staff. At a minimum, the system must have search capability to find cases, have the ability to incorporate digital signatures, the ability to attach notes to cases, and be able to print specific portions or all pages of a document.

The system must have logging capabilities for events such as failures, outages, correction of case file numbers, deletion of documents, and rejections due to incorrect filing or unusable documents due to poor quality images. Documents in an electronic file shall be available for viewing by the court immediately upon acceptance and validation by the clerk of court.

The court must validate that the electronic case file is accurate, reliable, timely, and provides needed reporting information, and is otherwise acceptable as part of its review and acceptance process.

## **3.5. ELECTRONIC SIGNATURES**

### **3.5.1. Signatures of Registered Users**

A submission by a registered user is not required to bear the electronic image of the handwritten signature or an encrypted signature of the filer. Electronic signatures may be used in place of a handwritten signature unless otherwise prohibited by law. The information contained in the signature block shall meet the following required elements defined in Rule 2.515(a) and (b), Florida Rules of Judicial Administration. Electronic signature formats of s/, /s or /s/ are acceptable. Additional information is optional.

#### **Attorney Example**

s/ John Doe  
Bar Number 12345  
123 South Street  
City, FL 12345  
Telephone: (123) 123-4567

#### **ProSe Example**

s/ Jane Doe  
123 North Street  
City, FL 12345  
Telephone: (123) 123-4567

### **3.5.2. Multiple Attorneys of Record Signatures**

When a filing requires the signatures of two or more attorneys of record:

The filing attorney shall initially confirm that the content of the document is acceptable to all attorneys required to sign the document and shall obtain the signatures of all attorneys on the document. For this purpose, physical, facsimile, or electronic signatures are permitted.

The filing attorney then shall file the document electronically, indicating the signatories, (*e.g.*, “s/ Jane Doe,” “/s John Smith,” “/s/ Jane Doe Smith,” etc.) for each attorney’s signature.

### **3.5.3. Original Documents or Handwritten Signatures**

Original documents, such as death certificates, or those that contain original signatures such as affidavits, deeds, mortgages and wills must be filed manually until further standards have been adopted.

### **3.5.4. Judge Signature**

Judges are authorized to electronically sign all orders and judgments. If digitized signatures of judges are stored, they are to be placed at a minimum 256 bit encryption and protected by user authentication.

#### **3.5.4.1. Security**

An electronic signature of a judge shall be accompanied by a date, time stamp, and the case number. The date, time stamp, and case number shall appear as a watermark through the signature to prevent copying the signature to another document. The date, time stamp, and case number shall also appear below the signature and not be obscured by the signature. When possible or required, the case number should be included also. Applications that store digitized signatures must store signatures in compliance with FIPS 140-2.

#### **3.5.4.2. Functionality**

The ability to affix a judicial signature on documents must include functionality that would improve the process. This functionality at a minimum should include the following:

1. The ability to prioritize documents for signature.
2. Allow multiple documents to be reviewed and signed in a batch in addition to individually.
3. The judge must have the ability to review and edit, reject, sign and file documents.
4. Have a standard signature block size on the document.
5. Allow forwarding of queued documents to another judge for signature if the primary judge is unavailable.
6. After documents are signed or rejected, they should be removed from the queue.
7. Have the ability to electronically file the signed documents into the case management system to be electronically distributed to all appropriate parties.

#### **3.5.5 Clerk Signature**

Unless otherwise required by law, Clerks and Deputy Clerks are authorized to electronically sign any documents that require the signature of the clerk, subject to the same security requirements that apply to a judge signature under standard 3.5.4.1.

### **3.6 ELECTRONIC NOTARIZATION**

Electronic notarization is authorized as provided in Florida Statute 117.021.



## **C. LEGISLATIVE UPDATES**

In 2016, the Florida Legislature amended or added the following sections: 48.031, 48.081, 48.092, 48.151, 48.193, 624.307, and 655.0201. This manual includes the updates.

## D. ADMINISTRATIVE ORDER 16-11

THE ELEVENTH JUDICIAL CIRCUIT  
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 16-1  
(Court Administration)  
(Rescinding AO Nos. 94-18  
and 09-12)

ADMINISTRATIVE ORDER  
NO. 16-11

IN RE: CERTIFICATION AND  
REGULATION OF CERTIFIED CIVIL  
PROCESS SERVERS WITHIN THE  
ELEVENTH JUDICIAL CIRCUIT

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**WHEREAS**, Rule 2.215 of the Rules of Judicial Administration places responsibility in the Chief Judge for the development of an administrative plan for the efficient and proper administration of all courts within the Circuit; and

**WHEREAS**, the Florida Certified Process Server Act, Florida Statutes §§ 48.25 through 48.31 (“Process Server Act”), expressly vests in the Chief Judge the authority to establish an approved list of process servers who have met the requirements for certification under the Process Server Act and the requirements set forth by the Eleventh Judicial Circuit of Florida; and

**WHEREAS**, the Legislature has provided in Chapter 48 a method of certification of process servers and has authorized the chief judge of each circuit to establish a list of such certified process servers who may serve process in that circuit; and

**WHEREAS**, § 48.29(6), Fla. Stat., provides that returns of service shall be made by certified process servers on a form which has been reviewed and approved by the court; and

**WHEREAS**, § 92.525, Fla. Stat., establishes alternate methods for verification of documents; and

**WHEREAS**, § 48.27, Fla. Stat., provides that certain standards and requirements as prescribed under the Process Server Act were established for the designation of certified process servers to be eligible to be included on an approved list for the Eleventh Judicial Circuit of Florida to serve initial non-enforceable civil process; and

**WHEREAS**, accordingly, this Administrative Order serves to amend and reestablish the

standards and requirements governing certified process servers within the Eleventh Judicial Circuit;

**NOW, THEREFORE**, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215, Rules of Judicial Administration, the following standards and requirements governing certified process servers within the Eleventh Judicial Circuit are hereby reestablished:

**A. STANDARDS AND REQUIREMENTS:**

1. Individuals seeking certification must submit an application with a reasonable processing fee, as set forth in the current Information Sheet for Applicants issued by the Administrative Office of the Courts (“AOC”), and must fulfill the following requirements:
  - (a) The applicant shall be a permanent resident of the State of Florida, shall be at least eighteen (18) years of age, and must have no mental or legal disability.
  - (b) The applicant shall submit to a background investigation which shall include a review of the applicant's criminal record, if any exists.
  - (c) The applicant shall obtain and file with the application a certificate of good conduct which specifies all of the following:
    - (1) There is no pending criminal case against the applicant.
    - (2) There is no record of any felony conviction of the applicant.
    - (3) There is no record of a conviction of the applicant for a misdemeanor involving moral turpitude or dishonesty within the past five (5) years.
  - (d) Persons who have completed an application and satisfied the requirements set forth in paragraphs 1(a)-(c) shall submit to a written examination testing the applicant's knowledge of the laws and rules regarding the service of process. A passing examination grade is hereby fixed at eighty percent (80%) out of a possible score of one hundred percent (100%). The content, frequency and location of the examination shall be approved by the Chief Judge or Chief Judge’s designee.
  - (e) An applicant shall execute a performance bond with a surety company authorized within Miami-Dade County in the amount of Five Thousand Dollars (\$5,000.00) as provided in § 48.29(3)(g), Fla. Stat. Such bond shall be approved by the Clerk of the Courts prior to presentation to the AOC and

shall be renewable on an annual basis.

- (f) An applicant who successfully completes the written examination shall take an oath that he or she will honestly, diligently, and faithfully exercise the duties of a certified process server.
  - (g) An applicant who completes the requirements set forth in Chapter 48 and set forth in this Administrative Order shall be eligible to be placed on the approved list of process servers to serve initial non-enforceable civil process as may be authorized in § 48.27, Fla. Stat.
2. The identification card issued to each certified process server shall be renewed annually, upon proof of good standing, completion of re-certification course, and current bond. At the time of renewal, a reasonable renewal fee set by the Chief Judge shall be due from each process server.
  3. Certified process servers approved for the Eleventh Judicial Circuit shall comply with all rules and statutes pertaining to service of process and will be expected to keep up to date with any new provisions within said rules and statutes.
  4. A certified process server on the approved List of Certified Process Servers eligible to serve process within the Eleventh Judicial Circuit may be removed from the List for good cause. Good cause shall include, but shall not be limited to, malfeasance, misfeasance, neglect of duty, or incompetence in connection with the duties of a certified process server. Furthermore,
    - (a) Any person aggrieved by the actions of a Certified Process Server may file a complaint with the Process Server Review Board of the Eleventh Judicial Circuit.
    - (b) The Board shall review the complaint and, after affording the process server an opportunity to be heard, shall forward its recommendations to the Chief Judge or the Chief Judge's designee for consideration. If the Chief Judge has named a designee, the Chief Judge's designee shall forward their approval or disapproval of the recommendation to the Chief Judge. Any substantiated complaint shall remain on file for a period of five (5) years.
    - (c) Nothing herein shall limit the power of the Chief Judge to take whatever action deemed appropriate without the necessity of referral to the Process Server Review Board.

**B. VERIFIED RETURN OF SERVICE FORM**

1. A return of service form provided by a certified Process Server that is captioned “Verified Return of Process” and which contains the following information shall be authorized for use in this Circuit:
  - (a) The court, case number, and caption of the case.
  - (b) The date and time when process was received by the Certified Process Server.
  - (c) The date and time when service was made.
  - (d) The specific manner of execution (section of statute, if applicable).
  - (e) The name of the person on whom service was made.
  - (f) If a person was served in a representative capacity, the position occupied by the person.
  - (g) The signature of the certified process server.
  - (h) The printed name and identification number of the certified process server.
  - (i) A statement that the person serving process is a certified process server in good standing in the judicial circuit in which the process was served and that the Certified Process Server is disinterested in the process being served.
2. Verification of the Return of Service shall be accomplished by either of the methods prescribed in § 92.525, Fla. Stat.:
  - (a) An oath before a notary that, by personal knowledge, the facts and matters contained within the Verified Return of Service are true and correct; or
  - (b) A signed declaration containing the following language: “Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated are true.”
3. A Verified Return of Service, to be valid, need not refer to any particular Administrative Order nor to any order or blanket appointment.
3. A Verified Return of Service which contains information in addition to those items mentioned above shall not be invalidated on that basis.

**C. MAINTENANCE OF LIST OF APPROVED CERTIFIED PROCESS SERVERS:**

The Administrative Office of the Courts and the Clerk of the Courts are hereby authorized and directed to maintain and update the List of Approved Certified Process Servers.

**D. PROCESS SERVER REVIEW BOARD**

1. Board Composition. The Board will be composed of a chair, co-chair(s), member-at-large, certified civil process server, board secretary, and coordinator. All are voting members except for the board secretary and the coordinator. All members of the Board shall be appointed by the Chief Judge.
2. Quorum. A quorum consists of three voting members.
3. Vacancies. Any vacancy on the Board shall be filled by appointment by the Chief Judge. The person appointed shall serve the remainder of the vacant term.
4. Terms. The Board will serve for a minimum of a two-year term beginning on April 1 of the new term calendar year.

This Administrative Order shall become effective immediately upon execution and shall remain in full force and effect until further order of the Court. Administrative Order Nos. 94-18 and 09-12 are hereby rescinded in their entirety and held for naught.

**DONE AND ORDERED** in Chambers at Miami-Dade County, Florida, this 21st day of September, 2016.

**BERTILA SOTO, CHIEF JUDGE  
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

# NOTES

# NOTES