

Service of Initial Process – Special Civil Part

Directive #5-01
(Supersedes #3-82)
Issued by:

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Administrative Director

To assure attorneys and litigants in all counties that diligent efforts to effect service of process are made in every case, all Special Civil Part Officers who serve initial process shall comply with the following procedures:

1. Time for Service

- A. The first attempt at service must be made within seven days from the date the officer receives the process from the Special Civil Part Clerk.
- B. Within 30 calendar days after receiving process, a return must be made to the court.
- C. During this 30-day period, at least four attempts at service must be made. At least one attempt must be made after 6:00 p.m. during the week or on the weekend. Each date and time of attempted service must be noted by the officer. If the process is unserved, the return must include a description of the premises where service was attempted.
- D. If a return is not made within 30 days, no additional matters shall be assigned to the officer at the discretion of the Civil Presiding Judge until the officer is no longer in violation of this provision.

2. Unserved Process

- A. It is the responsibility of the Special Civil Part Officer to provide as much information as possible when returning the initial process unserved. He/she must advise the plaintiff of the specific reasons service could not be made. Examples of acceptable reasons are:
 - 1) Dangerous animal prevents service;

- 2) Cannot gain entrance to premises, *i.e.*, door locked, fence, etc.;
- 3) Defendant receives mail at the address but does not reside there;
- 4) Defendant is owner of the real estate but does not reside on premises;
- 5) Cannot serve at place of business. This return must also include a certification as to the date, time, and name or description of the person who refused the Special Civil Part Officer permission to serve the process.

If the party to be served is on vacation, the Special Civil Part Officer is not entitled to a reissue fee unless he/she has proceeded with at least four attempts at service as set forth above.

B. If a specific reason is not given to the plaintiff, a Special Civil Part Officer is not entitled to reservice fees and mileage if the papers are reissued to the same address and if plaintiff presents proof that the previous address furnished is correct. This proof may be by verification from the post office or telephone calls to neighbors. Where telephone verification is used, plaintiff should include the name and telephone number of the neighbors contacted.

- 1) If the address furnished is a large complex, the Special Civil Part Officer is only entitled to a reservice fee if he/she certifies that there is no directory, mailbox, or superintendent that would lead the officer to the correct apartment or unit.
- 2) If the Special Civil Part Officer cannot locate the address and the address does exist, no reservice fees shall be allowed.

3. Conflicting Mailing Address

It is the duty of a Special Civil Part Officer to complete service of process even if the street address of the place of service is actually in a town that has a different mailing address and a different mileage fee from the amount paid by the plaintiff. In the event that additional mileage is due the Special Civil Part Officer, it is his/her responsibility to take the necessary

steps to advise the plaintiff to send the additional mileage fee to the Special Civil Part Clerk. If the actual location is in a town that carries a lesser mileage than that paid by the plaintiff, the Special Civil Part Officer is entitled to retain the excess.

4. Communication with Plaintiffs

It is the duty of each Special Civil Part Officer to establish a location and a telephone number at which he/she can be reached any day during work hours. The Special Civil Part Officer must return all telephone calls within 48 hours.

5. Distribution of This Directive

Civil Presiding Judges should arrange for distribution of this directive to persons serving initial process. This directive also should be available to litigants and attorneys using the Special Civil Part.