

Rule 401. Time for Service. Reissuance, Reinstatement, and Substitution of Original Process.

- (a) Original process shall be served within the Commonwealth within 30 days after the issuance of the writ or the filing of the complaint.

Note: See Rule 404 for the time for service outside the Commonwealth.

- (b)(1) If service within the Commonwealth is not made within the time prescribed by subdivision (a) of this rule or outside the Commonwealth within the time prescribed by Rule 404, the prothonotary upon *praecipe* and upon presentation of the original process, **or a copy thereof**, shall continue its validity by **[reissuing the writ or reinstating the complaint, by writing thereon “reissued” in the case of a writ or “reinstated” in the case of a complaint] designating the writ as reissued or the complaint as reinstated.**
- (2) A writ may be reissued or a complaint reinstated at any time and any number of times. A new party defendant may be named in a reissued writ or a reinstated complaint **only if the writ or complaint has not been served on any defendant.**

Note: A new party defendant cannot be added to a reissued writ or reinstated complaint if service has been completed on a defendant already named in the writ or complaint. For cases involving multiple defendants, a new party defendant cannot be added to a reissued writ or reinstated complaint if service has been completed on any defendant already named in the writ or complaint.

If a new party defendant cannot be added pursuant to this rule, other procedures are available. See Rule 229 to discontinue the action and to start a new action; Rule 1033 to amend the caption of a pleading by agreement of the party or by leave of court; and Rule 2232 to seek leave of court for an order joining a defendant.

- (3) A substituted writ may be issued or a substituted complaint filed upon *praecipe* stating that the former writ or complaint has been lost or destroyed.
- (4) A reissued, reinstated, or substituted writ or complaint shall be served within the applicable time prescribed by subdivision (a) of this rule or by Rule 404 after reissuance, reinstatement, or substitution.

- (5) If an action is commenced by writ of summons and a complaint is thereafter filed, the plaintiff, instead of reissuing the writ, may treat the complaint as alternative original process and as the equivalent for all purposes of a reissued writ, reissued as of the date of the filing of the complaint. Thereafter the writ may be reissued, or the complaint may be reinstated as the equivalent of a reissuance of the writ, and the plaintiff may use either the reissued writ or the reinstated complaint as alternative original process.

Note: If the applicable time has passed after the issuance of the writ or the filing of the complaint, the writ must be reissued or the complaint reinstated to be effective as process. Filing or reinstatement or substitution of a complaint, which is used as alternative process under this subdivision, has been held effective in tolling the statute of limitations as the reissuance or substitution of a writ.