

## Rule 307. Service of the Complaint.

Service shall be made at least ten days before the hearing, in the following manner:

(1) A copy of the complaint for each defendant shall be delivered by the magisterial district judge for service to the sheriff of, or any certified constable in, the county in which the magisterial district of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. If the complaint is delivered for service to the sheriff and service is to be made in a county other than the one in which the magisterial district of the magisterial district judge is situated, the sheriff shall deputize the sheriff of the county in which service is to be made. A certified constable may serve the complaint anywhere in the Commonwealth.

(2) If service is to be made in a county other than the one in which the magisterial district judge's magisterial district is situated, the magisterial district judge, instead of acting in accordance with subdivision (1), may:

(a) send the copy of the complaint for service to a magisterial district judge in the county in which service is to be made who shall deliver it for service to the sheriff of, or any certified constable in, that county. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth, or

(b) if service is to be made in Philadelphia, send the copy of the complaint for service to the Court Administrator of the Philadelphia Municipal Court who shall deliver it for service to a writ server of that court or to the sheriff of Philadelphia.

(3) When service by mail is permitted by the rules in this chapter, it shall be at the option of the plaintiff and shall be made by the magisterial district judge by certified **[or registered]** mail **or comparable delivery method resulting in a return receipt in paper or electronic form**. Such service may be made to any place in or outside the Commonwealth.

### Official Note

This rule provides a number of alternative methods of serving the complaint. Subdivision (1) permits a certified constable to serve the complaint anywhere in the Commonwealth and authorizes deputized service by sheriffs. Subparagraph (2)(a) permits service out of the county through magisterial district judges in the county in which service is to be made, a method of service which might be preferable to service under subdivision (1) by a certified constable of the county where the complaint was filed when that county is a considerable distance from the county of service. Subparagraph (2)(b) provides for service in Philadelphia by writ servers of the

Philadelphia Municipal Court or by the sheriff of Philadelphia, although service may still be made in accordance with subdivision (1) if the magisterial district judge so desires. Subdivision (3) makes service by mail, when permitted, at the option of the plaintiff. This was done because service by mail will ordinarily reduce costs.

Rule 308. Service Upon Individuals.

Service of the complaint upon an individual defendant shall be made:

- (1) by handing a copy to the defendant, or
- (2) by handing a copy:
  - (a) to an adult member of the defendant's family at his residence, but if no adult member of the family is found, then to an adult person in charge of such residence, or
  - (b) to the clerk or manager of a hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides, or
  - (c) at any office or usual place of business of the defendant to his agent or to the person for the time being in charge thereof, or
- (3) by mailing a copy to the defendant **by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form.** The return receipt **[card for certified or registered mail shall be marked "Restricted Delivery," and the return receipt]** shall show the signature of the defendant or **[an agent of the defendant authorized in writing to receive his restricted delivery mail]** **those persons designated in subdivision (2) of this rule.** If the signature on the return receipt is that of **[a person other than the defendant]** **any persons designated in subdivision (2) of this rule,** it shall be presumed, unless the contrary is shown, that the signer was an agent of the defendant **[authorized in writing to receive his restricted delivery mail].**

Official Note

Compare Pa. R.C.P. Nos. **[1009(b)] 402-403.** Subdivisions (1), (2) and (3) are not intended to be preferential in the order of their numbering. **[Subdivision (3) reflects changes in postal regulations effective March 1, 1975. The presumption in that subdivision stems from the presumption of regularity in the conduct of governmental affairs.]**

Rule 309. Service Upon Partnerships.

Service of the complaint upon a partnership shall be made:

(1) by handing a copy to a partner, manager, clerk or other person for the time being in charge, at any regular place of business of the partnership, or

(2) on a partner in the same manner as an individual if there is no regular place of business, or

(3) by mailing, **via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form**, a copy to the regular place of business of the partnership. The return receipt shall show that the complaint was received by the partnership.

Official Note

Compare Pa. R.C.P. No. **[2131(a)] 423**.

Rule 310. Service Upon Corporations.

Service of the complaint upon a corporation or similar entity shall be made:

- (1) on an executive officer, partner or trustee of the corporation, or
- (2) on an agent or person for the time being in charge of, and only at, any office or usual place of business of the corporation, or
- (3) on an agent authorized by appointment to receive service of process, or
- (4) by mailing, **via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form**, a copy to the regular place of business of the corporation. The return receipt shall show that the complaint was received by the corporation or similar activity.

Official Note

Compare Pa. R.C.P. No. **[2180(a)] 424**.

Rule 312. Service on a Political Subdivision.

**As used in this rule, “political subdivision” means any county, city, borough, incorporated town, township, school district, vocational school district, county institution district or municipal or other local authority.**

Service of the complaint upon a political subdivision shall be made:

(1) by handing a copy to an agent duly authorized by the political subdivision to receive service of process, or to the mayor, or to the president, chairman, secretary or clerk of the tax levying body thereof, or

(2) in counties where there is no tax levying body by handing a copy to the chairman or clerk of the board of county commissioners, or

(3) by mailing, **via certified mail or comparable delivery method resulting in a return receipt in paper or electronic form,** a copy to the office of the political subdivision. The return receipt shall show that the complaint was received by the political subdivision.

Official Note

Compare Pa. R.C.P. No. [2104(c)] **422. The definition of “political subdivision” is derived from Pa.R.C.P.**

### Rule 313. Service Outside the Commonwealth.

When service of the complaint is to be made upon a defendant outside the Commonwealth, it shall be made:

(1) by delivery in the manner prescribed by Rule 308, 309, 310 or 311, whichever is applicable, by a Pennsylvania sheriff or constable or by any adult, other than the plaintiff designated by the magisterial district judge or

(2) by certified **[or registered]** mail **or comparable delivery method resulting in a return receipt in paper or electronic form** as provided by Rule 308, 309 or 310, whichever is applicable;

(a) if the **[registered or certified]** mail is returned with a notation by the postal authorities **or commercial carrier** that receipt was refused, then the magisterial district judge may serve the complaint by sending a copy of the complaint by ordinary mail to the same address with a return address on the envelope. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen days after the mailing; or

(b) if the mail is returned with a notation by the postal authorities **or commercial carrier** that it was unclaimed, the plaintiff shall make service by another means pursuant to these rules, or

(3) in the manner provided or prescribed by the law of the place in which service is to be made for service in that place in an action in any of its courts of general jurisdiction.

#### Official Note

See the Judicial Code, § 5322, 42 Pa.C.S. § 5322 (as amended by § 10(61) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53) and § 5329(1), 42 Pa.C.S. § 5329(1), as to the basis of personal jurisdiction over persons outside the Commonwealth. The magisterial district judge may designate any Pennsylvania sheriff or constable to make service under subdivision (1), but such service should not be attempted if it would be offensive to the jurisdiction in which service is to be made. See Uniform Interstate and International Procedures Act, § 2.02, Commissioners' Comment, 13 Uniform Laws Annotated 297. Alternatively, the magisterial district judge may designate any adult other than the plaintiff to make service under subdivision (1). Although the magisterial district judge may not designate the plaintiff as the person to make such service, the plaintiff may suggest to the magisterial district judge the name of a person to make service. If service is made by ordinary mail under subdivision (2), the magisterial district judge shall note that fact on the original complaint form with the

remark that a sufficient time having elapsed the ordinary mail was not returned and shall attach to the original complaint form the returned certified or [registered letter] comparable delivery method resulting in a return receipt in paper or electronic form with the notation by the postal authorities **or commercial carrier** that the defendant refused to accept it. If service is to be made under subdivision (3), the magisterial district judge may send the service copy of the complaint to an appropriate official of the jurisdiction in which service is to be made. If service is made under subdivisions (1) or (3), proof of service may be made on the form provided under Rule 314A with such alterations as may be necessary or in any manner provided by the law of the jurisdiction in which the service is made for proof of service in an action in any of its courts of general jurisdiction. **Compare Pa.R.C.P. No. 404.**



Rule 314. Return, Waiver and Failure of Service; Reinstatement.

A. The person serving the complaint shall, at or before the time of the hearing, make proof of service which shall show (1) the manner of service, (2) the date, time, and place of service and, (3) the name and relationship or title, if any, of the person on whom the complaint was served. The proof of service shall be filed with the original complaint.

B. When service is made by **[registered or]** certified mail **or comparable delivery method resulting in a return receipt in paper or electronic form**, the return receipt shall be filed with the original complaint.

C. The appearance of a defendant in person or by representative or the filing by a defendant of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

D. If the complaint is not served on the defendant in time to permit holding a hearing within 60 days of the filing of the complaint, the magisterial district judge shall dismiss the complaint without prejudice.

E. Upon written request of the plaintiff, a complaint that has been dismissed without prejudice for failure to make service pursuant to subdivision D of this rule may be reinstated at any time and any number of times. The date of reinstatement shall be the date upon which the request for reinstatement is filed.

Official Note

The provision concerning appearance not being a waiver of venue was inserted in subdivision C of this rule to prevent the concentration of business in the office of a favorable magisterial district judge. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding improper venue.

Subdivision D is intended to prevent the accumulation of stale claims in the office of the magisterial district judge.

Subdivision E provides for the reinstatement, upon written request of the plaintiff, of a complaint that has been dismissed without prejudice for failure to make service under subdivision D. Compare Pa. R.C.P. No. 401(b). The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the complaint form, "Reinstatement of complaint requested," subscribed by the plaintiff. The magisterial district judge shall mark all copies of the reinstated complaint, "Complaint reinstated. Request for reinstatement filed on

\_\_\_\_\_ (date).” If it is necessary to use a new form for the reinstated complaint, the reinstated complaint, except for service portions thereof, shall be an exact copy of the original complaint, although signatures may be typed or printed with the mark “/s/” indicating an actual signature. The language in subdivision E that a complaint may be reinstated “at any time” will permit reinstatement after a faulty service without waiting for further proceedings in the case. Reinstatement must occur within the period of the statute of limitations from the date of the last filing or reinstatement. The cost for reinstating a complaint is specified in Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1. In addition, there may be additional server costs for service of the reinstated complaint.