

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 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 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 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] docket** with the remark that a sufficient time having elapsed the ordinary mail was not returned. **The magisterial district judge [and]** shall attach to the original complaint form the returned certified or registered letter with the notation by the postal authorities 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.

Rule 506. Service of Complaint.

A. The magisterial district judge shall serve the complaint by mailing a copy of it to the defendant by first class mail **and noting on docket the date of such mailing**, and by delivering a copy of it for service to the sheriff of, or any certified constable in, the county in which the office 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. The officer receiving the copy shall serve it by handing it to the defendant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered or, if none of the above is found, by posting it conspicuously on those premises.

B. The copy shall be served at least five days before the hearing.

Official Note: Under subdivision A of this rule, service must be made both by first class mail and delivery for service in the manner prescribed. In actions where wage garnishment may be sought under Pa.R.C.P. No. 3311, the plaintiff may authorize the sheriff or constable to make personal service upon a tenant/defendant. If a tenant/defendant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed. The plaintiff may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant/defendant so the plaintiff can later prove such service if attempting to garnish wages under Pa.R.C.P. No. 3311. Additional service attempts by the sheriff or constable may result in additional fees.

Rule 507. **Notation and** Return of Service; Waiver of Service

A. The magisterial district judge shall note on the **[complaint form] docket** the date **[on which he mailed a service copy of the complaint to the defendant] that a service copy of the complaint was mailed to the defendant**, and the sheriff or constable serving a copy of the complaint shall, at or before the time of the hearing, make proof of service on the form provided, which shall show the manner of service and the day, hour and place thereof.

B. The appearance of a defendant in person or by representative or the filing by him 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.

Official Note: This rule parallels the provisions of Rule 314A and C[**of the trespass and assumpsit rules**].