

How To SERVE A SUMMONS IN A CIVIL LAWSUIT

Do NOT use these instructions in Eviction Cases.

APRIL 2021

ALASKA COURT SYSTEM

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WHAT IS A SUMMONS?

A **summons** is a court order that notifies a defendant that a lawsuit has been filed against him or her and that the defendant must file an answer within a specified number of days. The procedure for issuing and serving a summons is governed by Civil Rule 4.

When a lawsuit is filed, the clerk of court must issue a summons to each defendant named in the complaint. You can download and fill out the CIV-100, Summons and Notice to Both Parties of Judicial Assignment here: <http://www.courts.alaska.gov/forms/index.htm#civ>. You may have to pay the court to make copies of this form after the clerk signs it.

The plaintiff must then have each defendant "served" with the summons and a copy of the complaint. The defendants must be served within 120 days from the date the complaint is filed.¹ The plaintiff is also required to file a Civil Rule 4(f) Affidavit identifying the parties who have been served and any parties who have not been served. Both plaintiffs and defendants must keep the court and all other parties informed of any changes in their mailing addresses and telephone numbers.

"Served" means to have these documents given to the defendant by a process server, certified mail or in another way allowed by Civil Rule 4.

These methods of services are explained below. See page 14 for information about how to serve a defendant who is outside this state.

1. PERSONAL SERVICE BY PROCESS SERVER

A "**process server**" is a person licensed by the State of Alaska to serve "process". "**Process**" means court orders such as summonses, writs of execution, and other types of documents required to be served by personal service.

If you want to use a process server, you must:

- a. Choose a process server. The court clerk will have a list of process servers in your area. You can also find a list of licensed process servers on the following Department of Public Safety (Alaska State Troopers) website: <https://dps.alaska.gov/Statewide/R-I/PermitsLicensing/Home>, then click on "Civilian Process Server List." Many parts of the state do not have process servers. In those areas, "process" is served by peace officers (usually by State Troopers).

¹ Civil Rule 4(f)

If the process server is not in your community, you must give the court an envelope addressed to the process server with sufficient postage so the clerk can mail the documents to the process server.

- b. Contact the process server to determine the service fee. Pay the fee directly to the process server unless the process server is not in your community. In that case, make your check payable to the process server but give it to the clerk to mail with the summons.

Fees are set by the individual process server. However, the maximum amount you may recover as costs from the defendant is governed by Administrative Rule 11. The current amount recoverable is \$45.00 for each person on whom service is made plus a minimum of \$20.00 for the first 25 miles or portion thereof traveled. Additional amounts may be recovered for extra mileage or extra time spent serving the documents.

- c. Fill out *Service Instructions*. Use either the process server's form or court form CIV-615, *Service Instructions*. Explain in the *Service Instructions* what papers are to be served and where they are to be served.
- d. Give the process server the following:
 - (1) *Service Instructions*
 - (2) The service fee
 - (3) The summons
 - (4) A copy of the complaint
- e. Proof of Service. When service is completed, the process server must give you proof of service. This proof is called a "Return of Service."² It is a notarized document that states who was served with the summons and complaint and when and how they were served. If you have any questions about the service, contact your process server.
- f. Once service is completed, read Section 4 on page 12 for instructions on how to prepare the required *Civil Rule 4(f) Affidavit*.

² Civil Rule 4(f)

CIV-106 (4/21)

HOW TO SERVE A SUMMONS

2. SERVICE BY CERTIFIED MAIL³

Service by certified mail must be restricted delivery to the "Addressee Only" and "Return Receipt Requested." If you want to use certified mail, you must:

- a. Prepare Envelope. See example on page 4.
 - (1) Address the envelope to the defendant.
 - (2) Put your return address in the upper left corner.
 - (3) Put sufficient postage on the envelope to mail it by certified mail, restricted delivery, return receipt requested.
- b. Prepare Certified Mail Postal Forms. See examples on pages 4 and 5.
 - (1) Fill out a Certified Mail Receipt. Be sure to include the total postage amount.
 - (2) Attach the sticker portion next to the return address at the top of the envelope. Leave the bottom "receipt" attached when you take it to the Post Office. The post office clerk will give you the receipt. Keep the receipt for your records.
 - (3) Beneath the certified mail sticker on the envelope, write "Return Receipt Requested, Restricted Delivery."
 - (4) Fill out a green postal receipt card.

Front:

- Fill in your name and address so the card will be returned to you.
- Write the case number in the lower left corner.

Back:

- In the "Article Addressed To" box, fill in the name and address of the defendant, write "Restricted Delivery," and write the total amount of postage and fees.
- In the "Article Number" box, write the certified mail number.
- In the "Service Type" box, check "Certified Mail."
- In the "Restricted Delivery" box, check "yes."

- (5) Attach the green card to the front of the envelope or on the back if space does not permit it to be attached to the front.

- c. Proof of Service

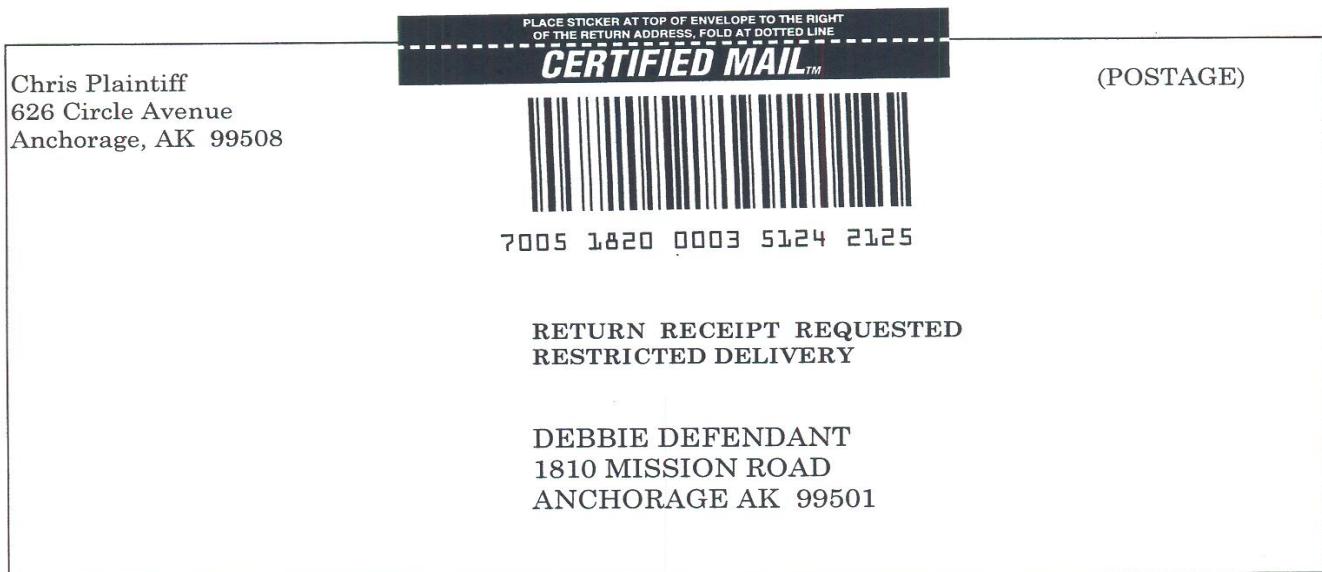
The green postal card will be returned to you when the defendant has been served.

IMPORTANT: You do not need to file the green postal card with the court at this time. Be sure to keep this document safe because you will need to file it with the court if the defendant does not respond to the summons.

- d. Once service is completed, read Section 4 on page 12 for instructions on how to prepare the required *Civil Rule 4(f) Affidavit*.

3 Civil Rule 4(h)

SAMPLE ENVELOPE



CERTIFIED MAIL RECEIPT

A "U.S. Postal Service CERTIFIED MAIL™ RECEIPT" form. It includes fields for postage (\$XXXX), certified fee (XXXX), return receipt fee (XXXX), restricted delivery fee (XXXX), and total postage & fees (\$XXXX). The recipient information is: DEBBIE DEFENDANT, 1810 MISSION ROAD, ANCHORAGE AK 99501. The form is dated 5/14/08 and is marked "OFFICIAL USE". A vertical tracking number 7005 1820 0003 5124 2125 is printed along the left edge.

The Post Office or
www.usps.gov
can provide these
amounts.

It is the customer's
responsibility to
verify the amount
of postage required
for mailing.

GREEN POSTAL RECEIPT CARD

(FRONT)

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

CHRIS PLAINTIFF
626 CIRCLE AVENUE
ANCHORAGE AK 99508-1234

3AN-08-333 CI

(BACK)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DEBBIE DEFENDANT
1810 MISSION ROAD
ANCHORAGE AK 99501

RESTRICTED DELIVERY

Postage: \$ XXXX

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Agent

Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*)

Yes

2. Article Number

(Transfer from service label)

7005 1820 0003 5124 2125

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

3. SERVICE BY POSTING OR OTHER ALTERNATIVE SERVICE

You can ask the court for permission to serve the defendant by posting on the Alaska Court System's legal notice website or other alternative service if you are unable to locate the defendant. Before asking the court for permission to serve the defendant by posting or other alternative service, you must show what attempts you have made to locate the defendant. You are expected to exhaust all reasonable attempts to locate the defendant. Unless otherwise ordered by the court, you must include a reasonable effort to search the internet for the whereabouts of the absent party. Examples of attempts you should make to locate the defendant include, but are not limited to, the following:

- Attempt service by process server or certified mail if you know defendant's last known address or workplace.
- Contact any known relatives or friends of defendant.
- Contact defendant's employer or last known employer.
- Check phone directories and city directories in all cities where you think defendant may live.
- Contact the municipal (city) tax department in all cities where you think defendant may live.
- Call telephone information and utility companies in all cities where you think defendant may live.
- Contact the state motor vehicle registrar in Alaska and any other state where you think defendant may live.
- Send a letter of inquiry to any person who you believe possesses knowledge or information as to defendant's whereabouts. You must include a self-addressed, stamped envelope for the person to use to respond.
- Contact the military locator service if you think the defendant is in the military:
By phone: Air Force: (210) 565-2660
 Navy: (866) 827-5672
 Marines: (703) 784-3942 or (800) 268-3710

On the web: scra.dmdc.osd.mil/scra/

- Check the Internet. There are search engines as well as businesses available on the Internet that may be able to assist you in locating people throughout the United States. Also, you can access phone directories for most cities in the United States through the Internet. Your local library may be able to help you with this.

- If you believe the defendant may be in a state jail facility in Alaska, you can contact the chief classification officer of the Department of Corrections to find out where the defendant is being held. Phone number of chief classification officer (Anchorage): (907) 269-7425.

Once you have exhausted all reasonable attempts to locate the defendant, you can ask for service by posting on the Alaska Court System's legal notice website or other alternative service:

For service by posting on the Alaska Court System's legal notice website:

- a. Complete and file the following documents with the court:
 - (1) *Request to Serve Defendant by Posting or Alternative Service and Affidavit of Diligent Inquiry.* (See sample on pages 8-11. You may use court form CIV-145). In your Affidavit, you must list every attempt you made to locate the defendant.
 - (2) *Notice to Absent Defendant* (form CIV-101), or in child's change of name cases, *Notice to Absent Parent* (form CIV-706).
 - (3) If you attempted to have defendant (or absent parent) served by process server or by certified mail, attach copies of the Return of Service or green postal card.
- b. If the court finds your attempts sufficient, the clerk will be directed to sign the *Notice to Absent Defendant* or *Notice to Absent Parent*.
- c. The notice will then be posted on the Alaska Court System's legal notice website for four consecutive weeks.
- d. Before the last week of posting, you must send a copy of the Notice and the complaint by regular first class mail and registered or certified mail to the defendant/parent at defendant's/parent's last known residence or workplace. However, if you are unable to ascertain the defendant's/parent's last known mailing address, you must submit an affidavit to that affect. See Civil Rule 4(e)(2). Immediately file an Affidavit with the court showing that you have attempted service by regular first class mail and registered or certified mail.
- e. After the Notice has been posted, the clerk will complete a certificate of service of posting to the Alaska Court System's legal notice website.
- f. Once service is completed, read Section 4 on page 12 for instructions on how to prepare the required *Civil Rule 4(f) Affidavit*.

For all other alternative service (service other than personal service, mail service, e-mail, posting on public bulletin boards, and posting to a social network account) complete and file a *Request to Serve Defendant by Posting or Alternative Service, and Affidavit of Diligent Inquiry*, attaching copies of the *Return of Service* or green postal card proving that you already attempted to serve the defendant/parent by process server or certified mail. (See sample on pages 8-11. You may use court form CIV-145.) If the court finds your attempts sufficient, a notice or order will be sent to you.

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____

vs.

Plaintiff(s),)
vs.) CASE NO. _____ CI
Defendant(s).)

) **REQUEST TO SERVE DEFENDANT BY
POSTING AND
ALTERNATIVE SERVICE,
AND AFFIDAVIT OF DILIGENT INQUIRY**

REQUEST

I request the court's permission to serve defendant (name) _____ under Civil Rule 4(e) by posting on the Alaska Court System's legal notice website.

Additional alternative service:

AFFIDAVIT

I state the following upon oath or upon affirmation under penalty of perjury:

1. An action has been or is about to be commenced against the defendant.
2. Attempts to Serve Defendant. Attempts to serve the defendant with the summons and complaint were made in the following manner:

Personal service by process server which was returned un-served because (attach return):

Certified mail, restricted delivery, return receipt requested, sent on _____ to defendant's last known address: _____

It was returned un-served because (attach envelope):

3. Attempts to Locate Defendant. In addition to the above, in order to fulfill my obligation to diligently inquire as to the defendant's whereabouts and to serve the summons on the defendant, I did the following (**check only the boxes that apply**):

- a. I wrote to and/or questioned defendant's friends and family:

<u>Persons Contacted</u>	<u>Relationship</u>	<u>Results</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. I wrote to and/or questioned defendant's current and previous employer(s):

<u>Employers Contacted</u>	<u>Results</u>
_____	_____
_____	_____

- c. I checked telephone directories and Polk city directories (available at the library), and called telephone information as follows:

<u>Directories Checked</u>	<u>Results</u>
_____	_____
_____	_____

- d. I used a locate-and-research company (such as Accurint and Ingens) to find the defendant:

<u>Companies Contacted</u>	<u>Results</u>
_____	_____
_____	_____

- e. I conducted people-finder research on the Internet:

<u>Websites Researched</u>	<u>Results</u>
_____	_____
_____	_____
_____	_____

- f. I checked Facebook and/or other online social networks with these results:

- g. I sent the summons to the defendant by first class mail (not certified) to the following address: _____ on (date) _____

with the following results: _____

I enclosed postage sufficient for the return of an answer.

- h. I checked with motor vehicle registrars in (cities): _____
with the following results: _____

- i. I called utility companies as follows:

<i><u>Companies Contacted</u></i>	<i><u>City</u></i>	<i><u>Results</u></i>
_____	_____	_____
_____	_____	_____

- j. I searched property tax listings as follows:

<i><u>Communities Searched</u></i>	<i><u>Results</u></i>
_____	_____
_____	_____

- k. I searched the Alaska Court System's trial court records online (<https://records.courts.alaska.gov/>) to find any cases involving the defendant. Then I went to the courthouse to check the file(s) for a current address and found the following: _____

- l. I searched court records outside of Alaska with the following results:

<i><u>Location of Courts</u></i>	<i><u>Results</u></i>
_____	_____
_____	_____

- m. I searched recorded or filed documents at:

(1) the Recorder's Office of the Alaska Department of Natural Resources (<http://dnr.alaska.gov/ssd/recoff/searchRO.cfm>) with the following results:

(2) a recorder's office outside of Alaska, located in _____ with the following results: _____

- n. I searched business license information at:

(1) the Alaska Division of Corporations, Business, and Professional Licensing (<https://www.commerce.alaska.gov/web/cbpl/>) with the following results:

(2) other local and state agencies outside of Alaska with the following results:

- o. I believe the defendant may be in the military. Therefore, I contacted the following military locator service(s):

- Air Force: (210) 565-2660
- Army: (888) 276-9472
- Navy: (866) 827-5672
- Marines: (703) 784-3942 or (800) 268-3710
- Coast Guard: (866) 772-8724

with the following results: _____

p. Other: _____

4. The purpose of my inquiry was to give the defendant notice of the action in order that the defendant may appear and defend it.
5. I believe other methods of service may be more likely to give the absent party notice (publication in a print or online newspaper, e-mail, posting on the absent party's social network account, physically posting on the front door of an absent party's place of residence, any other appropriate methods). Therefore, I did the following:

After completing all the inquiries listed above, I do not know the whereabouts of the defendant, and I do not know of any other sources of information through which I can learn the whereabouts of the defendant.

Date

Signature of Party or Attorney or Attorney's Agent

Print or Type Name

Subscribed and sworn to or affirmed before me at _____, Alaska
on _____.
(date)

(SEAL)

Clerk of Court, Notary Public, or other
person authorized to administer oaths/
My commission expires: _____

ORDER

It is ordered that:

(date)

Clerk / Judge

Type or Print Name

4. CIVIL RULE 4(F) AFFIDAVIT

Within 120 days after you file your complaint, you must file an affidavit identifying the defendants who have been served, the date service was made and any defendants who remain unserved. Use form CIV-135, *Civil Rule 4(f) Affidavit* (see page 13).

If you do not file this affidavit or if your affidavit states that you were unable to serve one of the defendants, the clerk will send you a notice of intent to dismiss the case as to the defendants not served. You will then have 30 days in which to either

- a. file a *Civil Rule 4(f) Affidavit* showing that all defendants have been served; or
- b. file a response explaining why you were unable to serve the defendants and asking for additional time to attempt service.

If you do not respond to the clerk's notice or if the court does not grant you more time to serve the defendant, the case will be dismissed without prejudice⁴ as to those defendants who were not served.

⁴ A case dismissed "without prejudice" means that the case may be refiled.

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

vs.

Plaintiff,

Defendant.

CASE NO. _____ CI

CIVIL RULE 4(f) AFFIDAVIT

I do solemnly swear (or affirm) that the facts set out below are true to the best of my personal knowledge:

1. I am the plaintiff. attorney of record for the plaintiff.
2. I filed the complaint in this case on _____.
3. A copy of the summons and complaint were served on the defendants as follows:

<u>Name of Defendant</u>	<u>Method of Service</u>	<u>Date of Service</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. No defendant remains unserved.
 The following defendants remain unserved:

Name of Defendant

Date _____

Signature of Plaintiff or Plaintiff's Attorney

Print Name _____

Subscribed and sworn to or affirmed before me at _____,
Alaska on _____.

(SEAL)
person

Clerk of Court, Notary Public, or other
authorized to administer oaths.
My commission expires _____

CIV-135 (12/00)(cs)
CIVIL RULE 4(f) AFFIDAVIT

5. *WHAT IF?*

a. What if service is unsuccessful?

Answer: If you are unable to serve the defendant by process server or by certified mail, see Section 3 on page 6 on Service by Posting. This type of service can be used if you are unable to locate the defendant or unable to serve the defendant through regular process.

b. What if defendant is out of state?

Answer: A defendant may be served outside the state of Alaska by either:

- Certified mail, return receipt requested (see Section 2), or
- Personal service by process server (see Section 1). However, this type of service must be made by a peace officer or a licensed process server in that state.⁵ To locate a peace officer or process server in another state, contact your local troopers or call the troopers' Judicial Services office in Anchorage at (907) 264-0699.

In addition, if the law suit involves title to or a lien on real or personal property within Alaska, service must also be made upon the person or persons in possession or in charge of such property.⁶

c. What if defendant is outside the United States?

Answer: Serving a person outside the United States can be difficult. You may wish to contact an attorney for help. You may serve a defendant outside the United States by following Civil Rule 4(d)(13). Information about the process is available at:

- (1) the websites listed in the "Note to SCO 1570" following Civil Rule 4 in the *Alaska Rules of Court*, or
- (2) on the following page of the court's Self-Help Center website: www.courts.alaska.gov/shc/family/shcinternat.htm

d. What if you do not know where the defendant is?

Answer: See Section 3 on page 6 on Service by Posting. This type of service can be used if you are unable to locate the defendant.

5 Civil Rule 4(d)(12).

6 Civil Rule 4(d)(12).

APPENDIX A

Who Must Be Served?

IF DEFENDANT IS:	WHO MUST BE SERVED:
Adult Individual <i>Civil Rule 4(d)(1)</i>	The individual.
Minor (Under Age 18) <i>Civil Rule 4(d)(2)</i>	<p>Both of the following:</p> <ol style="list-style-type: none"> 1. The minor, and 2. The minor's father, mother or legal guardian must also be served with the summons. <p>NOTE: The minor must be personally served by a process server. Civil Rule 4(h). See page <u>19</u> on how to address the summons.</p>
Incompetent Person <i>Civil Rule 4(d)(3)</i>	<p>Both of the following:</p> <ol style="list-style-type: none"> 1. The incompetent person. (Must be personally served by a process server. Civil Rule 4(h).) <p>AND one of the following:</p> <ol style="list-style-type: none"> 2. The guardian of the incompetent person or a competent adult member of the person's family with whom the person resides or if the person is living in an institution, then the director or chief executive officer of the institution. <p>A copy of any written order appointing the guardian or representative must be filed with the court.</p> <p>See page <u>19</u> on how to address the summons.</p>
A Business that is Not a Corporation or a Partnership	The owner of the business.

IF DEFENDANT IS:	WHO MUST BE SERVED:
A Domestic or Foreign Corporation <i>Civil Rule 4(d)(4) and AS 10.06.175</i>	<p>One of the following:</p> <ol style="list-style-type: none"> 1. The registered agent.⁷ 2. An officer of the corporation.⁸ 3. A managing or general agent of the corporation. 4. Any other agent authorized by appointment or by law to receive service of process.⁸ <p>See pages <u>19-20</u> about how to serve the Commissioner of DCED if there is no registered agent.</p>
Limited Liability Company <i>Civil Rule 4(d)(4) and AS 10.50.065</i>	<p>One of the following:</p> <ol style="list-style-type: none"> 1. The registered agent. 2. A managing member. 3. A managing or general agent of the limited liability company. 4. Any other agent authorized by appointment or by law to receive service of process.
Partnership <i>Civil Rule 4(d)(5)</i>	<p>One of the following:</p> <ol style="list-style-type: none"> 1. One of the partners. 2. A general agent of the partnership. 3. A person having control of the business of the partnership. 4. Any other agent authorized by appointment or by law to receive service of process.
Unincorporated Association <i>Civil Rule 4(d)(6)</i>	<p>One of the following:</p> <ol style="list-style-type: none"> 1. An officer of the association. 2. A managing or general agent. 3. Any other person authorized by appointment or by law to receive service of process.

7 To find out if a business is a corporation and the name and address of the registered agent and officers, contact the Department of Commerce, Community, and Economic Development, P.O. Box 110808, Juneau, AK 99811-0808. Juneau phone: (907) 465-2530. You can also look up this information on the Internet at the following web site: <https://www.commerce.alaska.gov/CBP/Main>. Read the instructions for searching the Corporations Database.

8 See, for example, AS 21.09.180 - .190 about insurance companies.

IF DEFENDANT IS:	WHO MUST BE SERVED:
State of Alaska <i>Civil Rule 4(d)(7)</i>	<p>Summons must be sent by <u>certified mail</u> to the Attorney General of Alaska at Juneau, Alaska.</p> <p>If the case is filed in the Third Judicial District, a copy of the summons must also be sent by <u>certified mail</u> to the Chief of the Attorney General's Office in Anchorage.</p> <p>If the case is filed in the Fourth Judicial District, a copy of the summons must also be sent by <u>certified mail</u> to the Chief of the Attorney General's Office in Fairbanks.</p>
Officer or Agency of the State <i>Civil Rule 4(d)(8)</i>	<p>Both of the following:</p> <ol style="list-style-type: none"> 1. The State of Alaska as explained above. 2. To the officer or agency of the State. <p>If the agency is a corporation, see the corporations section above for who to serve.</p>
City, Borough, Town, School District, Public Utility District or other Public Corporation <i>Civil Rule 4(d)(9)</i>	<p>To one of the following officials:</p> <ol style="list-style-type: none"> 1. Chief executive officer. 2. Chief clerk or secretary.
A Prisoner (in custody of Alaska Commissioner of Corrections) <i>AS 09.05.050</i>	<p>The jail shift supervisor.</p> <p>Address the summons to the defendant and fill out the top half (through paragraph c) of CIV-140, <i>Affidavit of Proof of Service at Jail Facility</i>. Mail (1) the summons, (2) a copy of the complaint, (3) form CIV-140 and (4) a stamped, self-addressed envelope to the jail shift supervisor at the jail where the defendant is being held. (You can mail these items to the jail by first class mail. They do <u>not</u> need to be served by process server or by certified mail.) The shift supervisor will personally deliver the documents to the defendant, complete the bottom half of CIV-140 and return the form to you.</p>

IF DEFENDANT IS:	WHO MUST BE SERVED:
A Deceased Person <i>AS 13.16.350(c)</i> <i>AS 13.16.020</i>	The court-appointed personal representative for the estate. NOTE: The personal representative must be named as the defendant on the complaint and the summons. Example: MARY SMITH, Personal Representative of The Estate of JOHN SMITH, Deceased.
Owner/Operator of Motor Vehicle Who Is Not in Alaska (These are claims resulting from a motor vehicle accident in Alaska where the defendant was the owner or operator of the motor vehicle and is out of the state.) <i>AS 09.05.020 - .040</i>	Commissioner of the Department of Administration. See page <u>21</u> about how to address the summons. Within 10 days after serving the Commissioner, you must also send to the defendant, by certified mail, a copy of the summons and complaint and a notice about the service on the Commissioner.
Contractor's Bond <i>AS 08.18.071 - .081</i> <i>12 AAC 21.120 - .140</i>	Contact the Division of Occupational Licensing in Juneau (465-2534) to find out if the bond is a <u>surety bond</u> or a <u>cash deposit, CD or savings account in lieu of bond</u> . ⁹ <u>Surety Bond.</u> Send two copies of the summons and complaint and a check for \$25 by certified mail to: Dept. of Commerce, Community & Economic Dev. Director, Division of Insurance PO Box 110805 Juneau, AK 99811-0805 Send a third copy of the summons and complaint by certified mail to: Dept. of Commerce, Community & Economic Dev. Division of Professional Licensing PO Box 110806 Juneau AK 99811-0806 <u>Cash Deposit (or CD or Savings Account).</u> Send one copy of the summons and complaint by certified mail to: Dept. of Commerce, Community & Economic Dev. Director, Division of Professional Licensing PO Box 110806 Juneau, AK 99811-0806

9 The Division of Professional Licensing can provide you with additional information about your contractor's bond and about the procedures you must follow to make a claim against the bond.

APPENDIX B

How to Address the Summons

You must fill out a separate summons for each defendant.

a. Adult Person.

Write the person's name on the "To Defendant" line.

b. Minor.

List both the minor and the minor's father or mother or legal guardian on the "To Defendant" line. This summons must be served on both the minor and the parent/guardian.

Example:

To Defendant: SEAN SMITH, a minor, through his parent HENRY SMITH.

If you are also suing the minor's parent/guardian, a separate summons must also be sent to that person.

Example:

To Defendant: HENRY SMITH, Individually.

c. Incompetent Person.

List both the incompetent person and the person's representative on the "To Defendant" line. This summons must be served on both the incompetent person and the representative.

Example:

To Defendant: JANE ADAMS, an incompetent person, through her representative, MARY KING

If you are also suing the representative, a separate summons must also be sent to that person.

Example:

To Defendant: MARY KING, Individually.

d. Business Not a Corporation or Partnership.

Address the summons to the owner of the business.

Example:

To Defendant: JOHN J. MILLER, Owner, John's Record Shop

e. Corporation or Limited Liability Company.

Address the summons to the registered agent of the corporation or limited liability company, or an officer of the corporation or the managing member of a limited liability company. See page 16.

Example:

To Defendant: TOM JONES, Registered Agent for World Fish Cannery, Inc.

Example:

To Defendant: ROBERT ADAMS, Registered Agent for Blackstone Investments, LLC.

If the corporation or limited liability company does not have a registered agent or if the registered agent cannot be found at the registered office, the summons can be served on the Commissioner of the Department of Commerce, Community, and Economic Development as follows:¹⁰

Step 1 – Serve the Commissioner. The complaint must list only the corporation or the limited liability company as the defendant, but the summons must be addressed to both the corporation or the limited liability company and the Commissioner.

Example:

To Defendant: ACME GRAVEL, INC., a corporation with no registered agent, through the Commissioner for the Department of Commerce, Community, and Economic Development.

Example:

To Defendant: BLACKSTONE INVESTMENTS, LLC, a limited liability company with no registered agent, through the Commissioner for the Department of Commerce, Community, and Economic Development.

You must send a \$25 check or money order (payable to the Department of Commerce, Community, and Economic Development) along with the summons and complaint.¹¹

Step 2 – Mail Notice to Corporation or Limited Liability Company. Also send to the defendant, via certified mail, a copy of the summons and complaint and a notice that explains to defendant that service is being made on the Commissioner as authorized by statute. Mail these items to the corporation or the limited liability company at both (a) the address of the last registered office of the corporation or limited liability company; and (b) the address you believe is most likely to result in actual notice.

Step 3 – File Proof with Court. Then file an affidavit with the court affirming that you have complied with the requirements of AS 10.06.175 for corporations or AS 10.50.065 for limited liability companies.

f. Partnership.

Address the summons to a partner or agent. See page 16.

Example:

To Defendant: MIKE MILLER, Partner, Century Apartment Properties.

10 AS 10.06.175 (corporations) or AS 10.05.065 (limited liability companies)

11 3 AAC 16.090 (Alaska Administrative Code)

g. Unincorporated Association.

Address the summons to an officer or agent. See page 16.

Example:

To Defendant: BOB BLACK, President, Blue Ridge Condominium Association.

h. Owner/Operator of Motor Vehicle Who is Not in Alaska.

If your lawsuit involves a motor vehicle accident in Alaska and the defendant is the owner or operator of the vehicle and if the defendant is now outside Alaska, Alaska Statutes 09.05.020 - .040 describe how to serve the defendant.

Step 1 - Serve the Commissioner. The complaint must list the owner/operator's name as defendant, but the summons must be addressed to both the defendant and the Commissioner of the Department of Administration.

Example:

To Defendant: JACK E. SMITH, operator of motor vehicle and not in Alaska, through the Commissioner of Administration.

Step 2 – Mail Notice to Defendant. Within 10 days after the date of service on the Commissioner, send to the defendant, by certified mail, a copy of the summons and complaint and a notice that explains to defendant that service is being made on the Commissioner as authorized by statute. If the defendant is outside the United States, refer to Section 5 c. on page 14 of this booklet for more information.

Step 3 – File Proof with Court. Then file an affidavit with the court describing the service and attaching copies of the documents and the post office receipt. See AS 09.05.020(d).

i. Contractor's Bond.

In the caption of the summons and complaint, the bond must be listed as the defendant. The "name" to use for the bond is the name of the surety (insurance company) or bank plus the number of the bond or CD (certificate of deposit) or savings account. Also include in the caption (after the bond number) the name of the contractor for whom the bond was issued and the contractor's license number.¹²

Address the summons as follows:

(1) Surety Bond.

Example:

To Defendant: Acme Insurance Co., Bond No. 123456 (written for Bob's Builders, Contractor License # xxx) through the Director of the Division of Insurance.

12 If the bond is a cash deposit with the state, you can name the "defendant" as follows: "Cash deposit in trust with the State of Alaska, Department of Commerce, Community, and Economic Development, Receipt Number 123456, deposited in lieu of bond by Bob's Builders, Contractor License # xxx."

(2) CD or Savings Passbook.

Example:

To Defendant: First Bank of Alaska, CD No. 123456 (filed in lieu of bond by Bob's Builders, Contractor License #xxx)
through the Director of the Division of Professional Licensing.

(3) Cash Deposit.

Example:

To Defendant: State Trust Account, Receipt No. 123456 (deposited in lieu of bond by Bob's Builders, Contractor License # xxx)
through the Director of the Division of Professional Licensing.

NOTE: If you are suing the contractor as well as the bond, your complaint must list both the contractor and the bond as defendants, and you must serve both the contractor and the bond with separate summonses.