

## Frequently Asked Questions as to the Service of Process

### Service of Process by US Marshal

1. *What kind of process does the U.S. Marshal serve?*
  - a. The U.S. Marshal serves process issued only under the authority of the federal courts. This includes bankruptcy, district, and circuit courts.
2. *I cannot locate a defendant. Will the U.S. Marshals Service be able to find them for me?*
  - a. No. The U.S. Marshals Service is not authorized by law to provide or perform investigative services for private litigants. If during the course of attempting to serve process, the Marshal is unable to locate a defendant at the address provided by the plaintiff, the Marshal may make some simple queries as to a forwarding location before returning the process unexecuted.
3. *My neighbor keeps bothering me and I have a restraining order. Will the U.S. Marshal serve it?*
  - a. The U.S. Marshal only serves process issued by a federal court or by a foreign court if it has been received through the U.S. Departments of State and Justice.

### Request for Service/USM285

4. *What is a USM285 and where can I get one?*
  - a. USM285, Process Receipt and Return is a form used by the U.S. Marshal to receive process for service, make return to the appropriate court, and notify the requestor that the service has been completed. The form functions as a work order as it provides the Marshal with instructions as what to do (service of summons, open a levy, etc.) Thus, a USM285 is required for each service. The USM285 also functions as return to the clerk of the court of jurisdiction in the case and makes a docket record of the service.

The requestor completes the top half of USM285 which provides the Marshal with the task and instructions. Upon acceptance for service, the Marshal will acknowledge receipt on the top line of the lower half and provide a copy to the requestor as proof that the Marshal has received the process. Upon service of the process, the Marshal will complete the lower half of the form indicating how the service was executed and listing any fees incurred. A copy of the completed form is returned to the Clerk of the Court have jurisdiction over the case and to the requestor.

The USM285 comes into two formats: a 5-copy form that is obtainable from the U.S. Marshal or Clerk of the Court and a PDF on-line format. When using the PDF version it is important to submit the original plus two copies (not five): one acknowledgment copy and one suspense copy. USM285 requirements and instructions are attached to service procedures on the website.

5. *Can I submit a USM285 and process for service by mail, fax, or email?*
  - a. The US Marshal Service does not accept unsolicited requests for service by email, fax, or mail service. At this time, we are not equipped with a central email account that would guarantee receipt of the USM285. To ensure receipt, either deliver the USM285 or contact someone directly at the US Marshal's office to arrange fax/email. We do hope to set up such an address in the near future.
6. *How many USM285's do I need for a levy or seizure?*
  - a. One USM285 set is required for each party to be served when service is to be made by the US Marshal. If the service is to be done by a Registered Process Server, only one USM285 is required to open the levy. Regardless of who serves the process, all parties to be notified are listed on an accompanying "Instruction to US Marshal". Please see the district levy procedures on the website or call the Process Service Unit.
7. *Do I need to submit an "Instruction to US Marshal" form if I have a registered process server serve the levy?*
  - a. Yes. The "Instruction to US Marshal" form replaces the attorney's letter, designates all parties to be served, and who (by company name) will serve the process. Only one copy of the "Instruction" is required for the levy submission.
8. *If a USM285 is required for each levy, what constitutes a levy?*
  - a. A levy is the seizure of real or personal property of a debtor at a single location. For example, three vehicles belonging to the debtor at the same location are considered one seizure.
9. *Do I need to submit an "original" Writ for levies?*
  - a. A court certified original of the Writ of Execution is required to be submitted to the US Marshal for return purposes **for the first levy based on a Writ**. Copies of the Writ can be used for subsequent levies although that submission should reference the date and levy that the original was provided to the US Marshal.
10. *I have a levy in place; what do I need to submit to direct the Marshal to release the levy?*
  - a. Only the USM285 is necessary to release the levy. The instructions should include the name of the levy to release and reason for release (ex: satisfaction of judgment, exempt property.)

#### In Forma Pauperis

11. *I am proceeding "in forma pauperis" and an order was issued directing the U.S. Marshal to serve it. Should I bring that to the Process Service Unit?*
  - a. Consult the order: in most cases, the Court directs the Clerk of the Court to prepare and issue the summons. The Clerk of Court then provides the Summons/Complaint and any necessary process along with service instructions to the U.S. Marshal. In these cases, the plaintiff does not need to do anything, but should monitor the case in PACER to ensure the clerk has provided the process to the Marshal.
12. *I am proceeding "in forma pauperis". Why are there fees listed on my "Notification of Service"?*

- a. When one proceeds *in forma pauperis* the Court orders the U.S. Marshal to serve without prepayment of fees. The fees are still incurred; however, collection is not attempted until the case is complete. Upon service of the process, the U.S. Marshal will submit a “Bill of Costs” to the Court. Upon judgment or settlement of the case, the Court will determine whether these costs will be taxed in the case and who will pay them.
13. *I am not proceeding “in forma pauperis”. Can I have the U.S. Marshal serve a Summons & Complaint?*
- a. Local rules indicate that the U.S. Marshal should not be used to serve Summons & Complaints except “when the United States is the plaintiff, the plaintiff is proceeding *in forma pauperis*, or when ordered by the Court.” If you are having trouble serving a Summons & Complaint because the defendant appears to be avoiding or refusing service, you may ask the Court for an Order directing the Marshal to serve the process. Fees will apply.

#### Use of Process Servers

14. *What’s the difference between a process server and a deputy U.S. Marshal?*
- a. The registered process server is a bonded individual who may serve certain types of process. The deputy Marshal is a law enforcement officer who is directed to enforce the orders of the court. In all cases, the U.S. Marshal is the levying officer.
15. *What can I use a process server for?*
- a. California Code of Civil Procedure allows for the use of a registered process server to levy under a Writ of Execution Real Property, crops or minerals, personal property in the custody of the levying officer (U.S. Marshal), deposit accounts and safe deposit boxes, accounts receivable, interest of a debtor in the estate of a decedent.
16. *When should I use a process server?*
- a. Use of a registered process server is encouraged whenever the law allows in order if it expedites service.

#### Process to be served on US Marshal Service employees

17. *I am suing the U.S. Marshals Service and/or a deputy. Do I serve those papers at the Civil or Process Service Unit?*
- a. No. The Process Service Unit only accepts process that is **to be served by the U.S. Marshal**. The Process Service (Civil) Unit is not designated or authorized **to accept process on behalf of the agency or individual deputies**. The process may be served upon the administrative office for the district. The U.S. Marshals Service office will not accept on behalf on an individual employee unless that employee consents to such service.

## Fees, Expenses, and Commissions

18. *How can I pay the U.S. Marshal for services rendered?*

- a. Payment is accepted by check or cashier's check (drawn on U.S. bank) or money order. We do not accept credit cards, cash, or electronic payment. **Do not staple the check to anything, it prevents proper deposit scanning.**

## Checking Status of Service

19. *The Marshal is supposed to serve my summons/complaints. How will I know when the process has been served? How long until I find out?*

- a. Deputy Marshals attempt to serve all parties in the case as quickly as possible, usually within 20 days. Once all parties are served, the U.S. Marshal makes a Return to the Court indicating when and how each party was served. At the same time, the Marshal will mail a "Notification of Service" to the address provided in the Requestor section of the USM285.

20. *What might delay my notification?*

- a. Because notification is made after all parties are served (or attempted), it may be delayed because we have not received proof of service. This is especially true in cases where parties are served by mail or in another district.

21. *I have not received any notifications of service. Can I check on the status? How?*

- a. If you have not received notification of service, you can check on the status of service by contacting the Process Service (Civil) Unit.

## Criminal Process

22. *Will the Marshals Service serve subpoenas on behalf of defendants or do they work for the government only?*

- a. If ordered by the Court, the Marshal will serve subpoenas on behalf of defendants.

23. *What do I need in order for the U.S. Marshal to serve subpoenas?*

- a. Please read "Submitting Subpoenas for Service by US Marshal".

24. *I wish to subpoena multiple witnesses in my case. Do I need a separate order for each one?*

- a. No, a single order from the court directing the Marshal to serve subpoena on behalf of the defendant(s) is enough. However, if you make a future request for service, you should provide a copy of the order or indicate the Document Number as listed in the PACER docket.

25. *I have witnesses who are willing to testify on behalf of my client. Do I have to use a subpoena and does the U.S. Marshal have to serve it?*

- a. It is not required that the Marshal serve a subpoena. Our directives encourage the use of others whenever possible. Service by the Marshal should be requested if the witness cannot be served by other means.

Although a willing witness does not need to be compelled to appear, it may be necessary to issue a subpoena to document that the witness has been called if the witness intends to apply for reimbursement of travel expenses. Information on that can be found [here](#).

26. *Do I have to pay for service?*

- a. 28 USC 1921 allows for the collection of fees for service of process. Fees are listed on the notification of service. The requirement to pay, however, may be affected by the defendant's ability to pay (See Rule 17 FRCP).

27. *I am a CJA attorney and the Court has ordered the Marshal to serve the subpoena in the same manner as "on behalf of the government", but there are fees listed on the notification of service. Am I supposed to pay the Marshal?*

- a. In cases in which subpoenas are served "as if on behalf of the government" because of the defendant's inability to pay, the fees are only informational as to the time and other expenses associated with service. There is no payment due.