



VALLEY

BAIL BONDS • PROCESS SERVICE
P.O. Box 434 • Belgrade, Montana 59714
Phone: (406) 586-8235



June 2 2010

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

May 28 2010

FILED

JUN 01 2010

Ed Smith
Montana State Supreme Court Clerk
215 N. Sanders
Helena, Mt. 59620

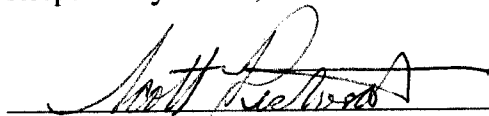
Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

RE: Rule 4D(2) (A) serving an individual legal papers

Dear Mr. Smith,

Per our phone conversation on May 28th here are couple of letters I wrote to the Attorney Generals office and James Goetz I hope you'll read. I was encouraged to write these letters when I introduced my bill in the 09 session which would have become 25-3-204(2) Substitute service, (copy enclosed). I was told I could not introduce my bill as my Representative told me there was some sort of Montana Supreme Court ruling already made on this issue. As I stated on the Phone Ed, we are in a recession now and the serving of legal papers is becoming increasingly dangerous because people are getting just plain mad at our Government. They can't pay their bills and the next thing they know they have a process server at their door not just once but often several times. As I mentioned Montana is one the last states that require personal, face-to-face service of civil papers to an individual. It is my hope that the Montana Supreme Court will reconsider Rule 4D(2)(a) in favor of my sub-service option. This will make the serving of legal papers much safer for not only private entities but sheriff's deputies across the state as well. It will also expedite civil justice. My letter to Steve Bullock explains our plight in further detail. Please Ed, help us if you can before one of us gets shot. You can always reach me at (406) 580-1364. Thanks in advance for your time.

Respectfully Yours,



Scott Restvedt
Valley Process Service



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10/30/09

Steve Bullock
Attorney General
P.O. Box 201401
Helena, Mt.

Dear Mr. Bullock,

My name is Scott Restvedt. I am a licensed process server through the Montana Department of Labor & Industry. I myself and many process servers across the state take a huge burden off sheriffs departments by serving legal documents such as summons & complaints, court hearing notices, etc. Montana is one of the few states left that requires personal service to the person named on the papers. Being said on many occasions we have to make many attempts at the persons home or work place to serve them. This irritates not only employers, but can also upset the wife of a husband that is seldom home. By the time we finally serve that husband he's either illusive or mad that we upset his wife by repeatedly showing up at their house. I had a lady on my third attempt to serve her husband point a 44 magnum at me and as she pulled back the hammer I dove into the bushes and ran narrowly missing getting shot. A fellow process server was held to the ground by a father holding a 12 gauge while on his fourth attempt to serve his daughter. A sheriff's deputy was shot to death years ago in Forsythe Montana while serving papers. Its needless to say serving legal papers can be lethal under Montana's current law requiring personal service. My answer to this is giving the process server the option to serve any one at the established residence 18 years of age or older to foreword it to the defendant, thus effecting service. This is called "SUB-SERVICE". It would only apply to certain types legal papers. Over the 23 years I've served papers I've served papers for nearly every state in the nation and most all of them have a sub-service option. This accomplishes two things. It expedites civil justice and increases process server safety be it a sheriff's deputy, or a private licensed server like myself. I tried to draft a bill at the 2009 legislature (attached) and was told by Representative Perry that a ruling was made in the Montana Supreme court and only the Attorney General could help us.

In closing, please keep in mind were in a recession and the people who are losing or have lost their homes, jobs etc., are very agitated and are at their breaking point. The last thing they want to see at their door is a process server with legal papers either evicting them, or a monetary request via summons. Please Mr. Bullock, help us if you can, because it's not if a process server will be shot, maimed or stabbed in the future because of Montana's primitive law, it's when. Please get back to me at your soonest possible convenience and thanks in advance for your consideration.

Scott Restvedt - Valley Process service



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December 4, 2009

James Goetz
Attorney At Law
P.O. Box 6580
Bozeman, Mt. 59715

Re: Substitute service of civil papers

Dear Mr. Goetz,

Per our phone conversation on 12/4/09 you'll find a letter I wrote to our Attorney General that I hope you'll read. In addition, there is some older research we did on other states on their civil procedure regarding service of process. Finally, I've included my proposed legislation which was not admitted because of some sort of a Supreme Court ruling. I put a lot of thought into this legislation and felt it would be court-server friendly and up to date with other states. This legislation would have also expedited civil justice and made the service of process SAFER for private entities as well as the sheriff. Please Mr. Goetz help us if you can before someone gets hurt or killed. I can be reached at 388-1364 or on my cell at 580-1364.

Respectfully Yours,

Scott Restvedt
Valley Bail Bonds & Process Service

New Section 25-3 –204 [2]

Intent – To expedite civil justice, to save plaintiff excessive service of process fees, and to increase process servers safety and effectiveness.

25-3-204 [2] Substitute service

With the exception of temporary restraining orders or divorce papers an officer or licensed process server may substitute serve any other type of process service including eviction notices at servers discretion to any one who resides at the established residence 18 years of age or older. The recipient must be advised obstruction of justice* can occur if papers are not forwarded to the person named on them at their soonest possible convenience. Substitute service can also occur at the work place as above only if the action including subpoena involves the company or institution itself, it's managers or owners. Papers that are not work related or personal in nature shall not be substitute served at a work place. Once a substitute service has occurred the server must state in affidavit the name of person served and their relationship to named person on the papers. This then constitutes a legal service of process to the named person.

*Relevant codes (45-7-302) and (25-3-105)

RULE 4 (continued)

<u>PRESENT RULE 4D(2)(a):</u>	<u>RECOMMENDED RULE 4(e):</u>
<p>(2) <i>Personal service within the state.</i> The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:</p> <p>(a) Upon an individual other than an infant or an incompetent person, by delivering a copy of the summons and of the complaint to the individual personally or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process, provided that if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given.</p>	<p>(e) Serving an Individual. An individual – other than a minor or an incompetent person – must be served by either:</p> <p>(1) delivering a copy of the summons and complaint to the individual personally; or</p> <p>(2) delivering a copy of the summons and complaint to an agent authorized by appointment or law to receive service of process. If the agent is one designated by statute to receive service, such further notice as the statute requires must be given.</p>

CALIFORNIA

§ 415.20

(a) In lieu of personal delivery of a copy of the summons and of the

complaint to the person to be served as specified in section 416.10, 416.20,

416.30, 416.40, or 416.50, a summons may be served by leaving a copy of the

summons and of the complaint during usual office hours in his or her office

with the person who is apparently in charge thereof, and by thereafter

mailing a copy of the summons and of the complaint (by first class mail, postage prepaid) to the person to be served at the place where a copy of the

summons and of the complaint were left. Service of a summons in this manner

is deemed complete on the 10th day after such mailing.

(b) If a copy of the summons and of the complaint cannot with reasonable diligence be personally delivered to the person to be served as specified in section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy of the summons and of the complaint at such person's

dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post office in

the presence of a competent member of the household or a person appearing

in charge of his or her office, place of business, or usual mailing

other than a United States Postal Service post office box, at 18 years

of age, who shall be informed of the contents thereof, and by

mailing a copy of the summons and of the complaint (by first

postage prepaid) to the person to be served at the place where the

summons and of the complaint were left. Service of a summons

is deemed complete on the 10th day after the mailing

STATE LAW.txt
(Amended by Stats. 1989, Ch. 1416, Sec. 15.)

COLORADO

Rule 4. Process.

(1) Upon a natural person over the age of eighteen years by delivering a copy or copies thereof to the person, or by leaving a copy or copies thereof at the person's usual place of abode, with any person over the age of eighteen years who is a member of the person's family, or at the person's usual place of business, with the person's secretary, bookkeeper, manager, or chief clerk; or by delivering a copy to an agent authorized by appointment or by law to receive service of process;

(2) Upon a natural person, between the ages of thirteen years and eighteen years, by delivering a copy thereof to the person and another copy thereof to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to any person in whose care or control the person may be; or with whom the person resides, or in whose service the person is employed; and upon a natural person under the age of thirteen years by delivering a copy to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to the person in whose care or control the person may be.

Washington DC

Rule 4. Summons.

(2) by delivering a copy of the summons, complaint and initial order to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons, complaint and initial order to an agent authorized by appointment or by law

to receive service of process.

MISSOURI

RULE 54.13 PERSONAL SERVICE WITHIN THE STATE

(b) How and on whom Made. Personal service within the state shall be

made as follows:

(1) On Individual. Upon an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and petition personally to the individual or by leaving a copy of the summons and petition at the individual's dwelling house or usual place of abode with some person of the individual's family over the age of fifteen years, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process.

NEVADA

Rule 4. Process

(6) In all other cases to the defendant personally, or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and complaint to an agent authorized by appointment or by law to receive service of process.