

## Civil Process

The Platte County Sheriff's Office, as part of a required function, serves civil process and praecipes from the courts. Civil papers are generally court issued documents but may also pertain to small claims court summons or subpoenas. A fee for service is required along with a fee for the mileage which varies. **CORRECT PREPAYMENT IS REQUIRED.** Papers received with incorrect amounts may be subject to delay or return. Staff members of the Sheriff's Office are not allowed to give legal advice.

### Civil Process Fees:

- Service Fee: \$12.00
- Return Fee: \$6.00
- Mileage: \$0.70 (2024)
- Advance Fees: \$25.00 - \$500.00

### Private Civil Process Servers

Paladin Services  
PO Box 1674  
Columbus, NE 68602  
Phone: (Days) 402-910-6687

### Praecipes:

Include a praecipe on writs where legally required

Writs received without praecipes cause unnecessary delays by forcing us to search the body of the document for service information.

Include complete and accurate service information

State Statute 25-502.01 requires an attorney to provide service information on his or her praecipe including an address to effect service. It is not our responsibility to perform research or investigations in order to locate defendants. Since we rely on the completeness and accuracy of service information supplied by you, it is in your best interest to ensure that service information is correct. If you rely on old file information for your praecipe, or if you fail to provide complete and accurate service information, the chances of successful service are reduced.

Defendants with rural route or post office box service addresses

We cannot serve defendants at rural route addresses or post office boxes. If you have a service address or location that is a post office box or rural route address, contact the post office serving that box or address and obtain a numerical street address or accurate directions to the location. It is your responsibility to perform this research and provide us with a location to effect service.

If a defendant is to be served at a place of employment

If you direct us to serve a defendant at a place of employment, it is your responsibility to perform the research necessary to provide us with the defendant's department, current job site and current working hours. Trying to locate a particular employee of a major corporation with numerous divisions scattered throughout several sites in the metropolitan area creates needless delays and reduces the chances of successful service.

Specifying residence service as an option

State Statute 25-505.01 provides that an attorney can specify the manner of service on his or her praecipe. By specifying personal service only on a praecipe when the law also allows residence service reduces the options for effecting service. Unless you have a particular requirement for personal service for a writ that can

also be legally served by residence service, please be sure to specify on your praecipe that you wish "personal or residence service".

### **Difficult service or avoiding service defendant procedures**

Supplemental defendant information

If you know that a defendant is going to be difficult to serve or has a history of avoiding service, please provide us with as much information as possible. Additional information increases the likelihood of successful service. Helpful information includes:

- Complete defendant personal information including middle initial, date of birth, social security number, last known address, place of employment, etc.
- Physical description including age, height, weight, hair color, glasses, moustache, scars, marks, tattoos, etc.
- Vehicle descriptions, photograph of the defendant, etc

### **Alternate (substitute or constructive) service**

If you have trouble locating an avoiding or difficult defendant, you have the option of filing a motion for substitute or constructive service under State Statute 25-517.02. We adhere to strict service procedures and rigorous documentation that can assist you when filing a motion for alternate service.

Do not ask us to leave a summons or other writ at an avoiding defendant's residence in the hope that he or she will appear. The Platte County Sheriff's Office will only serve process according to the law. If we cannot serve a writ, a return of not found must be made, and State Statute 25-507.01 requires us to return not found summonses to the issuing court.

### **Violent, mentally unstable defendants or those with communicable or infectious diseases**

Our process servers work in an increasingly dangerous environment. Their physical safety is paramount. Please indicate on your praecipe if a defendant has:

- a history of violence
- a history of mental instability
- a history of alcohol or drug abuse
- a history of weapons offenses
- a communicable or infectious disease

### **Subpoena Duces Tecum**

Unless you have specific requirements that a subpoena duces tecum must be served upon a named individual, please specify that service is to be effected upon "the custodian of records". If you specify service upon a named individual instead of custodian of records service may be delayed or impossible because the named individual is on vacation, sick leave or is otherwise unavailable.

### **Extra writ copies for making returns**

Please provide an extra copy to be used by us when making a return. An extra copy for a return is required of all writs except summons.

### **Make witness fees payable to the witness**

Do not make witness fees payable to the Platte County Sheriff's Office. Unnecessary endorsements, handling and other measures must be taken when witness fees are incorrectly made payable to this office. We are a governmental agency and this oversight results in time consuming and needless accounting headaches and delays.

### **When combining a summons and petition with other papers or attachments for service**

Please specify the attachments on the praecipe so that the clerical staff can determine when all additional papers or attachments have been received and the writs can be combined and routed for service. Failing to do this can result in delays that reduce the chances for successful service.

When combining writs for service that have different due or return dates, service will be attempted until the first applicable due date. For example, if you instruct us to combine a temporary restraining order (tro) with a summons for simultaneous service, we will attempt service until the tro expires. It is your responsibility to track your case file and check for service when the shortest applicable due date approaches. You must then provide us with additional service instructions regarding any remaining active writs.

### **Communications between attorneys and the office**

#### **Cornerstone of successful process service**

It is important that you and your staff communicate with us and advise us of your requirements, wishes and needs. The majority of problems encountered in serving civil process are traceable to a lack of communication between an attorney and our office.

We serve numerous attorneys registered with the Clerk of the District Court office. Unfortunately, it is no longer possible to give each writ the individual attention that was possible even a few years ago. By communicating with us and fulfilling your obligations via a complete and accurate praecipe and paying service fees promptly when billed, our relationship will be a positive and productive one.

#### **Returning telephone calls from process servers**

Our process servers are not required to perform legal research or conduct investigations to locate defendants. However, in the course of their service attempts they often develop leads on where a defendant may be, or have questions on how to proceed with service when all leads and service information have been exhausted. Under these circumstances they commonly contact the plaintiff attorney seeking further instructions or assistance. If you receive a message that a process server has called and is attempting to serve process for you, please return the call as quickly as practical. If additional information is required, two attempts will be made by telephone to contact originating attorney or court. Unsuccessful contact will result with writ being returned.

#### **Defendants entering voluntary appearances**

Please notify us when a defendant we are attempting to serve enters a voluntary appearance so that we can cancel our service attempts.

#### **Suggestions and comments**

In our efforts to provide professional and efficient civil process service, we continuously seek suggestions and new ideas to assist us in improving the efficiency and effectiveness of our operation.

If you have a suggestion or comment about our operation please feel free to contact us. Complaints, comments, and suggestions are valuable forms of feedback that enable us to fine-tune our procedures.

If you have a suggestion or comment please telephone the Civil Process Division at 402-564-9077

#### **Complaints**

The Platte County Civil Division enjoys a reputation for efficiency, professionalism and integrity. However, the nature of civil process service can sometimes yield misunderstandings and complaints. If you have a complaint, telephone the appropriate number below. All complaints are actively investigated and resolved.

- If your complaint involves process service or a process server, contact:
  - Lt. Kevin Schuller 402-564-9077
- If your complaint involves an execution, attachment, replevin or a process deputy sheriff, contact:
  - Lt. Kevin Schuller 402-564-9077

#### **Execution and attachment levy procedures**

### **Goods and chattels**

State Statutes 25-1516 and 25-1518 require us to levy upon goods and chattels before levying upon lands and tenements. The law also requires us to make a diligent search for goods and chattels before returning an execution unsatisfied. We cannot legally make a return of unsatisfied if unencumbered assets upon which to levy are found.

#### **Leviable property known to the petitioner or plaintiff attorney**

Please notify us if you know of leviable property. The search for goods and chattels is facilitated if known and unencumbered assets are indicated to us. It is important for the plaintiff attorney to check for liens and encumbrances on any prospective property before we levy on it.

#### **Partial judgment satisfaction**

If you have received monies from a defendant partially satisfying a judgment, please direct defendant to make payment payable to the Platte County Sheriff's Office, then please notify us immediately so that we can adjust our collection efforts accordingly. Once a collection procedure has been started through the Sheriff's Office, all monies should pass through the system for fee collections.

#### **Mutual agreements satisfying a judgment**

If the plaintiff and defendant in an action arrive at a mutual agreement, please notify us immediately so that we can discontinue our efforts.

#### **Writs of assistance, writs of restitution, other move-out writs**

To protect the petitioner's property as well as the personal belongings and property of the defendant, departmental policy allows the occupants of a dwelling or building a short time to gather or secure their possessions or property before vacating the building. The process deputy will stand by while the locks are being changed for purposes of keeping the peace. The petitioner will arrange for a locksmith to change the locks previous to the Deputies arrival. Once the property has been returned to the petitioner, defendant will have to make arrangements with the petitioner to remove other personal belongings.

### **COMMON QUESTIONS AND ANSWERS**

#### **Ex parte custody orders**

Question: I have an ex parte custody order involving minor children currently in the custody of a parent or guardian. Will the Platte County Sheriff's Office meet my client and turn custody of the minor children over to him or her?

Answer: No.

Ex parte orders are served upon the defendant like other writs. It is up to the defendant to comply with the order or appear at a show cause hearing to explain why he or she is not complying. The only writs authorizing the Platte County Sheriff's Office to remove minor children from the custody of a parent or guardian are orders for immediate custody or writs of habeas corpus issued by a Platte County District Court.

The circumstances underlying the issuance of ex parte orders granting temporary custody are usually emotionally charged. Because the Platte County Sheriff's Office will not force a parent or guardian to relinquish custody when served with an ex parte custody order, having a petitioner present serves no useful purpose. Our experience indicates that the presence of a petitioner during service only aggravates already strained emotions resulting in increased danger to everyone present.

#### **Other service arrangements for avoiding service defendants**

Question: I have a subpoena for a difficult to serve witness. Can the Platte County Sheriff's Office serve the witness after hours, on holidays or weekends?

Answer: Yes.

The Platte County Sheriff's Office employs a staff of civilian process servers on duty between 8:00 a.m. and 5:00 p.m., Monday through Friday. We do serve after hours, on weekends or on court holidays by uniformed personnel, if staffing and time allow. If you need other service arrangements, request that the issuing judge authorize you to serve the paper, or consult the yellow pages for process servers, private detectives, etc. The Platte County Sheriff's Office will not serve civil process to bar patrons for safety reasons.

#### **Alternate (substitute or constructive) service**

Question: I am having trouble locating and serving a defendant who is actively avoiding service. Your office has been unable to serve him. What can I do?

Answer: State Statute 25-517.02 allows you to file a motion for alternate (substitute or constructive) service. If your motion is granted, forward a copy of the order with the writ and we will affect service according to the commands in the order.

#### **Uniformed deputies serving process**

Question: Can uniformed deputies assigned to the Patrol Division serve my paper after hours?

Answer: Yes.

The Platte County Sheriff's Office employs a staff of civilian process servers on duty between 8:00 a.m. and 5:00 p.m., Monday through Friday. We do serve after hours, on weekends or on court holidays by uniformed personnel, if staffing and time allow. Again, if you need other service arrangements, have a judge authorize you to serve the paper, or consult the yellow pages for process servers, private detectives, etc.

#### **Subpoenas required for process server appearances**

Question: I want a process server to appear for a deposition or a hearing regarding contested service. Will I need a subpoena?

Answer: Yes.

Process servers are not based in the division office, but are on the street serving papers. To prevent frivolous requests for appearances and to afford the same courtesy to process servers as that afforded to other witnesses, division policy requires that a subpoena be issued at least three working days prior to the hearing or deposition.

#### **Obtaining answers to civil process questions**

Question: I have a question regarding civil process procedures. Can the Platte County Sheriff's Office help me?

Answer: Maybe.

The office employs a clerical staff of trained and experienced Civil Process Technicians with numerous years of experience in all aspects of civil process. However, we are not attorneys and we do not give legal advice. Please restrict questions to the office's duties and responsibilities in processing or serving a writ.

#### **Combining writs for simultaneous service**

Question: I have a temporary restraining order (tro) and a summons in a marriage dissolution case. Can they be served together?

Answer: Yes.

However, since the tro and the summons each have different return or due dates (10 days or a hearing date for the tro and 20 days from the date of issue for the summons), it is your responsibility to check for service at or near the expiration of the tro. You can then advise us if you want to continue attempts for service on the summons.

### **Rush or last minute process service**

Question: I have a rush summons that must be served immediately because of a hearing date tomorrow. Can the Platte County Sheriff's Office serve my writ immediately?

Answer: Maybe.

We pride ourselves on delivering the highest quality professional process service. And, we understand that occasional, legitimate emergencies or short notice summons or other process will require rush service.

However, the volume of papers handled by the Civil

Process Division makes it difficult to accommodate rush requests.

### **Returns received in the mail**

Question: I received a return in the mail from the sheriff's office, what do I do with it?

Answer: You must file the original with the appropriate court.

### **How to check for service**

Question: How do I check for service?

Answer: Telephone our office at 402-564-9077 between 8:00 a.m. and 5:00 p.m. Be sure to have the docket and page of the action, and/or the correct spelling of the defendant's name as it appears on the writ(s).

Please call before 5:00 p.m. to avoid the rush of service inquiries between 4:30 and 5:00 p.m.

### **Defendant information on attachments, executions, etc.**

Question: What defendant information must I include for attachments, executions and replevins?

Answer: Include as much descriptive information as possible including first and last name, middle initial, date of birth, current or last known address, social security number, etc. When searching computerized ownership files for property on which to levy, it is possible for defendants with common names to have nearly 1,000 similarities making it virtually impossible to establish ownership. Specific defendant descriptive information is often the only way to positively determine ownership. Including descriptive information as simple as a defendant's middle initial can mean the difference between identifying leviabale property and not being able to determine ownership.

### **Replevin procedures**

Question: What procedures are involved when I file for a replevin?

Answer: File the necessary paperwork with the Clerk of the appropriate Court. After we receive the replevin from the Clerk's office, the property will be appraised. You must then post a bond with us for twice the appraised value within 24 hours. If a defendant posts the redelivery bond within 24 hours of the levy and prior to receipt of the plaintiff's undertaking and / or delivery, the property will be returned to the defendant.

Costs and sheriff's fees vary depending upon what is being seized. Towing and storage charges for vehicles for example, and other costs vary widely depending upon the circumstances. State Statute 33-120 allows a sheriff's office to demand advance payment for costs associated with executing a replevin. We will estimate these costs and it is your responsibility to pay these costs prior to execution of the replevin. Failure to pay sheriff's fees and costs in advance will result in the replevin being returned unsatisfied for failure of the attorney to pay costs.

### **County Court writs**

Question: Will the Sheriff serve County Court writs in the same manner as District Court writs?

Answer: Other than a few statutory differences in time required for service and return, the Sheriff's Office will attempt service with the same diligence as District Court writs.