

Public Counsel

HAVE I BEEN PROPERLY SERVED?

NOTE: This instructional packet is not legal advice. Not all of the information in this packet may be relevant to you and the facts of your case might call for different information. You should carefully consider the facts of your case when using this packet. If you need specific legal advice, you should consult an attorney.

HAVE I BEEN PROPERLY SERVED?

Service of a summons and complaint

Service means that you have officially been given notice of the summons and complaint in a lawsuit against you. Service is typically made in two ways: personal service or substituted service.

Personal Service

Personal service is when someone actually hands the summons and complaint to you. If you are personally served with a summons and complaint, you have 30 days from the date you received the papers to respond to the complaint.

Substitute Service

Substitute service is when someone comes to your home or place of business and hands the complaint and summons to a person over 18 who either lives with you or is in charge of the place of business. The person delivering the documents must be told what the documents are. Then, the

person delivering the documents must mail a copy to you at the same address. If you are substitute served with a summons and complaint, you have 40 days from the date the documents were mailed. Be sure to save the envelope that the documents came in to determine the date of mailing.

Defects in Service

Sometimes a proof of service (a form that the person serving the documents fills out once they have served the documents, which is then filed with the court) is filed that indicates you were personally served or substitute served, but you were not. You may choose not to respond to that complaint due to the faulty service. However, if a proof of service has been filed, the court will rely on what the proof of service says and may enter a default judgment against you if you do not respond to the complaint. If you want to challenge the proof of service, you may file what is called a “motion to quash.” However, even if that motion is granted, it does not mean that the case goes away, it just means that the person suing you has to re-serve you properly. If you want to file a motion to quash, do not file a response to the complaint. Filing a response to a complaint waives your right to dispute that service of the summons and complaint was proper.

Sometimes the proof of service is filed relatively soon after service is made, or allegedly made, but sometimes it is not filed until much later. You can check the status of a case, and see documents filed in that case, by going to the L.A. Superior Court’s website and entering the case number. Here is a link to the relevant page: [Superior Court of Los Angeles County | Civil Case Access](#).