



REPUBLIKA NG PILIPINAS  
TANGGAPAN NG MANANANGGOL PAMBAYAN  
**(PUBLIC ATTORNEY'S OFFICE)**  
DOJ Agencies Bldg., NIA Road corner East Avenue  
1104 Diliman, Quezon City  
Tel. Nos. 926-2878; 929-9010; 929-9436

MEMORANDUM CIRCULAR NO. 001  
SERIES OF 2014

**STANDARD OFFICE PROCEDURES TO BE OBSERVED IN  
THE SERVICE OF SUMMONS UPON ADVERSE PARTIES  
PURSUANT TO A.M. NO. 11-10-03-O AND R.A. 9406**

**ARTICLE 1**

**PURPOSE AND APPLICABILITY**

Section 1. **Purpose.** - This Memorandum Circular is issued for the purpose of setting forth and defining the guidelines and procedures to be observed by the Public Attorney's Office lawyers and staff in the service of summons upon the adverse party in civil cases filed by public attorneys in behalf of qualified PAO clients in light of the En Banc Resolution of the Supreme Court in Administrative Matter No. 11-10-03-O in relation to Sec. 6 of Republic Act No. 9406 (PAO Law) and Section 3, Rule 14 of the Rules of Court so that the constitutional mandate that no person shall be denied access to the courts by reason of poverty may be effected, fully served and realized.

Section 2. **Applicability.** - This Memorandum Circular shall be applicable to civil cases instituted by the Public Attorney's Office for and in behalf of qualified PAO Clients who cannot afford to pay the sherrifs expenses.

**ARTICLE 2**

**DEFINITION OF TERMS**

Section 1. **Definition of terms.** - For the purposes of this Memorandum Circular, the following terms shall mean:

- a. Summons -The writ by which a defendant is summoned. A notice to the person being that an action against him has begun and that judgment will be taken against him if he fails to answer within a given date;<sup>1</sup>

<sup>1</sup> *Philippine Legal Encyclopedia*, Jose Agaton R. Sibal, Central Lawbook Publishing Company Incorporated, Quezon City, Philippines, 1986, page 1017.

- b. Filing Attorney – The public attorney who makes, signs and files the complaint;
- c. Resident Attorney – The public attorney who is permanently assigned to appear before and handle all the cases involving qualified PAO clients before a particular branch of the court;
- d. Territorial limits of the district or sub-district office – The geographic coverage of a district or sub-district office;
- e. Reasonable time –“so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party;”<sup>2</sup>
- f. Personal service on defendant – actual delivery or tender of summons to the defendant personally;<sup>3</sup>
- g. Residence – the terms “dwelling house” or “residence” are generally held to refer to the time of service, hence it is not sufficient “to leave a copy at defendant’s former dwelling house, residence or place of abode, as the case may be, after his removal therefrom. They refer to the place where the person named in the summons is living at the time when the service is made, even though he may temporarily be out of the country at the time;”<sup>4</sup>
- h. Office or regular place of business – refer to the office or place of business of the defendant at the time of service;<sup>5</sup>
- i. A person of suitable age and discretion – one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons and has the ability to make decisions representing a responsible choice and understands what is lawful, right or wise. Such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action, and must have the “relation of confidence” to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons<sup>6</sup>;
- j. Domestic private juridical entity – a corporation, partnership or association

---

<sup>2</sup> *Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano*, G.R. No.130974, August 16, 2006, citing *Far Eastern Realty Investment, Inc. v. CA*, G.R. No. L-36549, October 5, 1988, 166 SCRA 256.

<sup>3</sup> Page 9, *A Handbook for Sheriffs, Philippine Judicial Academy*, October 2003

<sup>4</sup> Page 10, *Id.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano*, G.R.No.130974, August 16, 2006.

organized under the laws of the Philippines;

- k. Public corporations – those formed or organized for the government of a portion of the state<sup>7</sup>; and,
- l. Foreign private juridical entity – one formed, organized or existing under any laws other than those of the Philippines and whose laws allow Filipino citizens and corporations to do business in its own country or state<sup>8</sup> and which has transacted business in the Philippines.

### **ARTICLE 3**

#### **DUTIES OF THE PUBLIC ATTORNEY**

##### **Section 1. Duties of the filing Public Attorney**

A. Attach a written request in the complaint or petition (Annex A).

B. Ascertain where the case is raffled and make the necessary coordination and transfer of the case to the resident Public Attorney of the said Court.

C. Should a defendant or any of the defendants in a case reside outside the territorial jurisdiction of the PAO district office which filed the complaint, the filing PA shall include in the written request (Annex A), duly noted/approved by the DPA, that the summons will be served by another district office or offices.

##### **Section 2. Duties of the resident Public Attorney**

A. After the turn-over of the case, the resident Public Attorney shall coordinate with the Clerk of Court for the issuance of the summons.

B. Upon receipt of the summons together with a copy of the complaint and its attachments, the resident PA shall immediately turn over the same to the process server for immediate service to the adverse party.

C. In cases referred to in Article 3, Section 1.C, the original of the summons and copies of the same shall be transmitted to the concerned district office together with an indorsement letter duly noted/approved by the DPA. The expenses incurred in the said

---

<sup>7</sup> Section 3, Act No. 1459, *The Corporation Law*.

<sup>8</sup> Taken from Section 123, BP Blg. 68, Corporation Code.

transmittal shall be duly documented and the receipts for the same shall be included in the report of expenses incurred in the service, as set forth in No. 4, Section 2 of Article 4 of this Memorandum Circular.

## ARTICLE 4

### SERVICE OF SUMMONS BY THE PAO PROCESS SERVER

Section 1. **Designation of PAO Process Server.** – Upon the recommendation of the RPA/OIC and the approval of the CPA one personnel of the district office shall be designated as process server of the said district.

The designated process server of the PAO district/sub-district shall have completed at least two years of college education, has at least one year of relevant experience and shall have at least four (4) hours of relevant training.<sup>9</sup>

Section 2. **Duties of the PAO Process Server.** – The PAO process server for each district/sub-district shall have the following functions:

1. Receive the copy of the summons from the concerned Public Attorney and acknowledge receipt of the same, indicating the date and time of receipt;
2. Serve a copy of the summons to the defendant/s;
3. Make a return of the service of the summons within five (5) days therefrom<sup>10</sup> and submit the same to the Clerk of Court of the branch where the case is raffled, copy furnished the resident public attorney, and; in cases where the summons was served by another district office, the process server shall transmit the same to the district office of origin, duly noted by his DPA/OIC, for appropriate action.
4. Keep a complete record of the expenses incurred in the service of the summons, with all the supporting documents, and submit the same to the concerned Branch Clerk of Court, using the attached form Annex "B", with a request that they be attached to the records of the case, copy furnished the resident Public Attorney.

Section 3. **Service in person on defendant/s.** – As much as practicable the PAO process server shall serve summons upon the defendant/s in a civil action by handing a copy thereof to the defendant/s in person, or, if he refuses to receive or sign for it, by tendering it to him.<sup>11</sup>

---

<sup>9</sup> A Handbook for Sheriffs, Philippine Judicial Academy, October 2003; (CSC Res. 991772 dated August 10, 1999).

<sup>10</sup> Section 4, Rule 14 of the Rules of Civil Procedure.

<sup>11</sup> Section 6, Rule 14.

In actions *in personam*, the service upon the defendant, who is actually in the Philippines need not be effected at his actual residence at the time of the service of summons. It is enough that a copy of the summons be handed personally to the defendant wherever in the country he may be found.<sup>12</sup>

The defendant served who receives a copy of the summons shall be made to sign the original of the summons to be returned to the court. Should the defendant refuse to receive the summons or sign the original, the said fact shall be noted by the process server in the return of service of summons.

After the process server shall have successfully served a copy of the summons upon the defendant/s, he shall within five (5) days<sup>13</sup> submit a return of the summons to the Court, specify which papers were served, for which purpose, he shall use the form, Process Server's Return of Summons, Annex "C" of this Memorandum Circular.

Section 4. **Substituted service.** – If for justifiable causes the defendant cannot be served within a reasonable time as provided for in Section 6 of Rule 14 of the Rules, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving copies at the defendant's office or regular place of business with some competent person in charge thereof.<sup>14</sup>

Personal service of summons, should and always be the first option.<sup>15</sup> Substituted service of summons shall only be resorted to in the event that despite making three attempts to serve summons in person to the defendant on at least two different dates, and after the exercise of due care, utmost diligence and reasonable promptness and speed, with the process server using resourcefulness, perseverance and caniness and diligence upon the defendant.<sup>16</sup>

Section 5. **Substituted service at residence of defendant, how made.** – The substituted service of the summons at the residence of the defendant shall be made by leaving a copy of the same upon a person of suitable age and discretion then residing therein.<sup>17</sup>

---

<sup>12</sup> *Sansio Phils., Inc. vs. Sps. Alicia & Leodegario Mogol, Jr.*, G.R. No. 177007, July 14, 2009, citing several cases. "It is well-established that summons upon a respondent or a defendant must be served by handing a copy thereof to him in person or, if he refuses to receive it, by tendering it to him. Personal service of summons most effectively ensures that the notice desired under the constitutional requirement of due process is accomplished. The essence of personal service is the handing or tendering of a copy of the summons to the defendant himself, wherever he may be found; that is, wherever he may be, provided he is in the Philippines."

<sup>13</sup> Section 4, Rule 14.

<sup>14</sup> Section 7, Rule 14.

<sup>15</sup> *Constantino Pascual vs. Lourdes S. Pascual*, G.R. No. 171916, December 4, 2009

<sup>16</sup> *Ibid.*

<sup>17</sup> Section 7, Rule 114

The PAO process server must accomplish the Return, and the same shall describe the following:<sup>18</sup>

1. On the failure of personal service:
  - a. facts and circumstances surrounding the attempted personal service;
  - b. the efforts made to find the defendant;
  - c. a clear and detailed narration of the reasons behind the failure;
  - d. the dates and times, and the number of the attempts on personal service;
  - e. the inquiries made to locate the defendant;
  - f. the name/s of the occupants of the alleged residence or house of the defendant;
  - g. all other acts done, though futile, to serve the summons on defendant, and;
  - h. the reasons for failure of personal service and its impossibility;
  
2. On the person on whom substituted service was made at the residence of the defendant:
  - a. name;
  - b. the person's relationship to the defendant, and;
  - c. whether the said person comprehends the significance of the receipt of the summons and his duty to immediately deliver the same to the defendant or to at least inform the latter of the former's receipt of the summons;

Section 6. ***Substituted service at the defendant's office or regular place of business, how made.*** – If the PAO process server makes substituted service of summons at the defendant's office, he must make sure that the summons will be served on a competent person in charge of the place, either the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. The details regarding the person on whom substituted service is made must be stated in the return.

Section 7. ***Service upon entity without juridical personality.*** – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name.<sup>19</sup>

Section 8. ***Service upon domestic private juridical entity.*** – When the defendant is a corporation, partnership or association organized under the laws

---

<sup>18</sup> *Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano*, G.R. No.130974, August 16, 2006, citing *Domagas vs. Jensen*, G.R. No. 158407, January 17, 2005, 448 SCRA 663, 677, citing *Lam v. Rosillosa*, G.R. No. L-3595, May 22, 1950, 86 Phil. 447.

<sup>19</sup> Taken from Section 8, Rule 14

of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.<sup>20</sup>

Section 9. **Service upon foreign private juridical entities.** – When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.<sup>21</sup>

Section 10. **Service upon public corporations.** – When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct.<sup>22</sup>

Section 11. Return to be under oath. – The return to be accomplished by the PAO process server shall be under oath.<sup>23</sup>

Section 12. The provisions of Rule 14 of the Rules of Court shall be suppletorily applied to this Standard Operating Procedure.

## ARTICLE 5

### EFFECTIVITY

Section 1. This Memorandum Circular shall take effect fifteen (15) days after the approval thereof.

  
**PERSIDA V. RUEDA-ACOSTA**  
Chief Public Attorney

APPROVED: May 22, 2014

<sup>20</sup> Taken from Section 11, Rule 14

<sup>21</sup> Taken from Section 12, Rule 14

<sup>22</sup> Taken from Section 13, Rule 14.

<sup>23</sup> Section 18, Rule 14 which requires that if service is done by other than the sheriff or his deputy, the return has to be sworn to.

**ANNEX "A"**

Republic of the Philippines

\_\_\_\_\_ TRIAL COURT OF \_\_\_\_\_

\_\_\_\_\_ Judicial Region

BRANCH \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_,  
Plaintiff/s,

- versus -

\_\_\_\_\_  
\_\_\_\_\_,  
Defendant/s.

X- - - - -X

Civil Case No. \_\_\_\_\_

For: \_\_\_\_\_

\_\_\_\_\_

HON. \_\_\_\_\_  
PRESIDING JUDGE

**GREETINGS:**

May we respectfully request that the Public Attorney's Office be allowed to serve summons upon the defendant in the case, pursuant to A.M. No. 11-10-03-O, promulgated on July 30, 2013, authorizing the Public Attorney's Office to serve summons upon the defendants in civil case where the plaintiff/s is/are the clients of the Office.

We hope that this merits the Honorable Court's favorable attention and action.

Very truly yours,

\_\_\_\_\_  
Resident Public Attorney



**ANNEX "B"**

Republic of the Philippines  
\_\_\_\_\_ TRIAL COURT OF \_\_\_\_\_  
\_\_\_\_\_ Judicial Region  
BRANCH \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_,  
Plaintiff/s,

Civil Case No. \_\_\_\_\_

- versus -

For: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_,  
Defendant/s.

X-----X

**ITEMIZED REPORT OF SERVICE EXPENSES**

NO.	NATURE OF EXPENSE	SUPPORTING DOCUMENT	AMOUNT

Respectfully submitted, \_\_\_\_\_.

\_\_\_\_\_  
Name & Signature  
Public Attorney / Employee

**ANNEX "C"**

Republic of the Philippines  
\_\_\_\_\_  
TRIAL COURT OF \_\_\_\_\_  
\_\_\_\_\_  
Judicial Region  
BRANCH \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Plaintiff/s,

Civil Case No. \_\_\_\_\_

- versus -

For: \_\_\_\_\_

\_\_\_\_\_  
Defendant/s.

X- - - - -X

**PAO RETURN OF SUMMONS  
(PERSONAL SERVICE)**

**THIS IS TO CERTIFY** under oath that on \_\_\_\_\_ the undersigned served the summons together with a copy of the Complaint, personally upon the defendant \_\_\_\_\_ who signed/refused to acknowledge receipt thereof.

The original copy of the summons is, therefore, respectfully returned, **DULY SERVED**.

**IN WITNESS WHEREOF**, I hereunto set my hand this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_, in \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Name & Signature  
Public Attorney / Employee

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_, in \_\_\_\_\_, Philippines.

**ANNEX "C-1"**

Republic of the Philippines  
\_\_\_\_\_  
TRIAL COURT OF \_\_\_\_\_  
\_\_\_\_\_  
Judicial Region  
BRANCH \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Plaintiff/s,

Civil Case No. \_\_\_\_\_

- versus -

For: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Defendant/s.

x-----x

**PAO RETURN OF SUMMONS  
(SUBSTITUTED SERVICE)**

**THIS IS TO CERTIFY** under oath that on \_\_\_\_\_ the undersigned served the summons together with a copy of the Complaint, personally upon the defendant \_\_\_\_\_ at \_\_\_\_\_ through \_\_\_\_\_, a person of suitable age and discretion residing therein/ a competent person in charge of the defendant's office or regular place of business, who signed/refused to acknowledge receipt thereof.

Substituted service was resorted to because defendant cannot be promptly served in person for the following justifiable reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The original copy of the summons is, therefore, respectfully returned, DULY SERVED.

**IN WITNESS WHEREOF**, I hereunto set my hand this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_, in \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Name & Signature  
Public Attorney / Employee

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_, in \_\_\_\_\_, Philippines.