

IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2026

In the Matter of Amending)
Rule 4 and 41 of the Wyoming Rules of)
Civil Procedure)

**ORDER AMENDING RULE 4 AND 41 OF THE WYOMING RULES OF CIVIL
PROCEDURE**

The Civil Rules Division of the Permanent Rules Advisory Committee with approval from the Wyoming Judicial Council has recommended that the Court amend Rule 4 and 41 of the Wyoming Rules of Civil Procedure. The Court finds the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to the Wyoming Rules of Civil Procedure, attached hereto, be, and hereby are, adopted by the Court to be effective September 21, 2026; and it is further

ORDERED that this order and the attached amendments be published in the advance sheets of the Pacific Reporter; the attached amendments be published in the Wyoming Court Rules Volume; and that this order and the attached amendments be published online at the Wyoming Judicial Branch's website, <http://www.wyocourts.gov>, on the "Rule Amendments" page. The attached amendments shall thereafter be recorded in the journal of this Court.

DATED this 21st day of July, 2026.

BY THE COURT:

/s/

LYNNE BOOMGAARDEN
Chief Justice

Wyoming Rules of Civil Procedure

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Rule 4. Summons.

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(k) Alternative Service by Publication. ~~Alternative Sservice by publication~~ is service by means other than personal service. Alternative service includes service by publication or any other means reasonably calculated to provide actual notice unless a specific method is provided by law. Alternative service may be had ~~where specifically provided for by statute, and~~ in the following cases:

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(l) Requirements for Alternative Service by Publication.

(1) Motion and Affidavit Required. Before ~~alternative service by publication~~ can be made, the party seeking service shall file a motion for alternative service with a supporting affidavit of the party, or the party's agent or attorney, an affidavit of the party, or the party's agent or attorney, must be filed stating:

(A) that service of a summons cannot be made within this state, on the defendant to be served by publication or alternative means, and

(B) stating the defendant's address, if known, or that the defendant's address is unknown and cannot with reasonable diligence be ascertained, and

(C) detailing the efforts made to obtain an address, and

(D) that the case is one of those mentioned in subdivision (k), and

(E) the requested means of service is reasonably calculated to provide actual notice to the defendant and the factual basis to support that assertion. If no other alternative service is reasonably calculated to provide actual notice to the defendant, the moving party may request that the court allow alternative service by publication. When such affidavit is filed, Tthe party may proceed to make service when the court enters an order approving the means for the alternative serviceby publication.

(2) Publication and Notice to Clerk Order.

(A) Address in publication.— In any case in which service by publication is made ~~when the address of a defendant is known, it must be stated in the publication. The court shall find that personal service of a summons pursuant to Rule 4(e) cannot be made on the defendant to be served; and~~

(i) The manner of alternative service proposed by the serving party is reasonably likely to provide actual notice to the defendant; or

(ii) That no other manner of service is reasonably likely to provide

actual notice to the defendant and therefore service by publication shall be required.

~~(B) Notice to and from clerk. — Immediately after the first publication the party making the service shall deliver to the clerk copies of the publication, and the clerk shall mail a copy to each defendant whose name and address is known by registered or certified mail and marked ‘Restricted Delivery’ with return receipt requested, directed to the defendant’s address named therein, and make an entry thereof on the appearance docket. The court order allowing alternative service shall:~~

(i) State the requirements for service, which may include a requirement that the serving party include a copy of the court’s order with the documents to be served;

(ii) State how the serving party must prove service occurred; and

(iii) State the conditions under which service is deemed complete.

~~(C) Affidavit at time of hearing. — In all cases in which a defendant is served by publication of notice and there has been no delivery of the notice mailed to the defendant by the clerk, the party who makes the service, or the party’s agent or attorney, at the time of the hearing and prior to entry of judgment, shall make and file an affidavit stating unknown,~~

~~(i) the address of such defendant as then known to the affiant, or if~~

~~(ii) that the affiant has been unable to ascertain the same with the exercise of reasonable diligence, and~~

~~(iii) detailing the efforts made to obtain an address.~~

~~Such additional notice, if any, shall then be given as may be directed by the court.~~

(3) Alternative Service When Permitted. When alternative service is required by law or by order of the court, the following provisions apply.

(A) The person seeking service shall effectuate service as required by the court’s order permitting alternative service.

(B) For service by publication:

(i) In any case in which service by publication is made when the address of a defendant is known, it must be stated in the publication.

(ii) The clerk shall sign a notice of publication, which must be published by the party seeking service by publication for four consecutive weeks in a newspaper published:

(a.) in the county where the complaint is filed; or

(b.) if there is no newspaper published in the county, then in a newspaper published in this state, and of general circulation in such county; and

(c.) if publication is made in a daily newspaper, one insertion

a week shall be sufficient; and

(d.) publication must contain:

(I) a summary statement of the object and prayer of the complaint,

(II) mention the court wherein it is filed,

(III) notify the person or persons to be served when they are required to answer, and

(IV) notify the person or persons to be served that judgment by default may be rendered against them if they fail to appear.

(iii) Notice to and from clerk. Immediately after the first publication the party making the service shall deliver to the clerk a certificate of mailing to the clerk for signature and seal and one (1) copy of the papers served and a copy of the publication. The certificate of mailing shall state that the clerk mailed the provided papers to the served party—and a description of papers served—at their last known address by certified mail. The party making service shall tender the cost of mailing as provided by Rule 4(x).

~~(m) [Reserved] Publication of Notice.——The publication must be made by the clerk for four consecutive weeks in a newspaper published:~~

~~(1) in the county where the complaint is filed; or~~

~~(2) if there is no newspaper published in the county, then in a newspaper published in this state, and of general circulation in such county; and~~

~~(3) if publication is made in a daily newspaper, one insertion a week shall be sufficient; and~~

~~(4) publication must contain~~

~~(A) a summary statement of the object and prayer of the complaint,~~

~~(B) mention the court wherein it is filed,~~

~~(C) notify the person or persons to be served when they are required to~~

~~(D) notify the person or persons to be served that judgment by default may be rendered against them if they fail to appear.~~

(n) When Service by Publication is Complete; Proof.——Proof of Service. After the serving party accomplishes service pursuant to the court's order or Rule, the party shall:

(1) Completion.——Service by publication shall be deemed complete at the

~~date of the last publication, when made in the manner and for the time prescribed in the preceding sections; and If service was by publication, file the affidavit of the publisher showing the requisite publications.~~

(2) ~~*Proof.*— Service by publication shall be proved by affidavit. If service was by other alternative means, file a notarized statement that service was accomplished according to the court order accompanied by evidence to support the statement as provided in the order permitting service.~~

(3) ~~For purposes of Rule 4(u), when service is made by publication, a defendant shall be deemed served on the date of the first publication.~~

(o) *Alternative Service by Publication upon Unknown Persons.* — When an heir, devisee, or legatee of a deceased person, or a bondholder, lienholder or other person claiming an interest in the subject matter of the action is a necessary party, and it appears by affidavit that the person’s name and address are unknown to the party making service, proceedings against the person may be had by designating the person as an unknown heir, devisee or legatee of a named decedent or defendant, or in other cases as an unknown claimant, and alternative service by publication may be had as provided in these rules for cases in which the names of the defendants are known.

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Rule 41. Dismissal of Actions.

(a) *Voluntary Dismissal.* —

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(3) Not a Failure Otherwise Than Upon The Merits. — Voluntary dismissal as provided for herein does not constitute a failure otherwise than upon the merits for the purposes of W.S. § 1-3-118.

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