

# Kimball, Tirey & St. John LLP

## Help Your Process Server to Save Time in Your Eviction

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One of the longest delays in processing evictions occurs when not all occupants are served personally (hand to hand) with the unlawful detainer summons and complaint. More often than not, the occupants know they must be legally served in order for the court to award a judgment for possession of the subject property. If they are sophisticated, they know that they can delay the time for the eviction by two to three weeks if they successfully avoid the process server.

If the unlawful detainer is not served in person, it can be served on another person who resides at the property or on the person in charge of the place of employment of the occupant, so long as they are of sound mind and at least 18 years of age. If no one can be found to substitute serve, then the court will allow the process server to post the unlawful detainer on the front door of the subject property and mail a copy by certified mail, but only after the court has signed an order allowing for this method of service.

Most courts also require process servers to attempt to serve the unlawful detainer personally for three consecutive days, with both morning and afternoon/evening attempts before the suit can be served by substituted service. Once served by substitution, the occupant has a total of 15 days to file responsive papers in court instead of the normal five days following a personal service. Therefore it is crucial that the process server is able to serve each occupant personally (hand to hand) to avoid a two to three week delay in your case.

The more information provided to the process server, the more likely he/she will be able to quickly serve all occupants personally with the unlawful detainer action. We recently polled our process servers as to why it is increasingly more difficult to personally serve defendants of an unlawful detainer lawsuit. They suggested several causes, but the lack of access codes to security gates was the number one cause, followed by the lack of physical description or picture ID of the defendants. Another reason is the fact that people are more reluctant to open their door to strangers because of the increase in home invasions and the desire for more privacy. All a defendant has to do is to Google "delay my eviction" and there are a host of ways suggested, including avoiding the process server.

Below are some of the most helpful ways you can assist your process server in achieving a personal serve on all occupants.

### Places of Employment

It is much easier to avoid a process server at home, rather at the occupant's place of employment. To avoid the process server at home, they simply don't answer the door. Therefore, it is important to include the occupant's verified place of employment to improve your chances of a personal serve.

## **Description of Occupant's Vehicle and Parking Space Number**

It is easy for the process server to tell if the occupants are home by checking their parking space and/or description of their car with license plate. If a stake out is necessary, it is also a good place to wait until the occupant wants to leave in their vehicle.

## **Picture ID**

Do you have a picture of the defendant or copy of their driver's license? This would be very helpful as some defendants lie about who they are. If a picture is not available, a complete physical description is very useful.

## **Best Time to Find Home**

It is helpful to know the best time to find the occupant at home. Occupants who work a late shift versus someone who is unemployed makes a big difference as to the best time the process server can expect to find the occupants at home.

## **Security Codes or Keys**

Many times our process servers have to wait for someone to enter or exit the property before they can even get to the occupant's door. It is very helpful to give the process server the gate code or keys so they can gain entry. Every process server we use is licensed and bonded.

## **Dangerous Animals or Conditions**

It is important to keep the process servers aware of any dangerous conditions or animals on the property so they can take necessary precautions.

## **Additional Descriptions of the Subject Property**

It is very helpful to identify the name of the apartment community in addition to the street address and unit number. If there are several buildings, describe the building where the subject property is located so the correct unit is easy to identify.

An important part of our unlawful detainer practice is to ensure the process server assigned to your case has all of the information necessary to serve each occupant in person. If your process server has all of this information, you too could save valuable time in the unlawful detainer process.

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