

Department of the Interior Departmental Manual

Effective Date: 4/15/63

Series: Legal

Part 452: Litigation

Chapter 1: Service of Process

Originating Office: Office of the Solicitor

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1.1 **Purposes.** The purposes of this chapter are to bring to the attention of officers and employees of the Department the provisions of Public Law 87-748 which added certain provisions to Title 28, United States Code, relating to court actions against Government officials and to establish a procedure for reporting service of process.

1.2 **Provisions of Law.** Public Law 87-748, approved October 5, 1962 added the following new section to title 28, U.S.C.:

Sec. 1361. Action to compel an officer of the United States to perform his duty

“The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”

Also, Public Law 87-748 added a new paragraph (e) to section 1391 of Title 28 as follows:

“(e) a civil action in which each defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, except as otherwise provided by law, be brought in any judicial district in which: (1) a defendant in the action resides, or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4) the plaintiff resides if no real property is involved in the action.

The summons and complaint in such an action shall be served as provided by the Federal Rules of Civil Procedure except that the delivery of the summons and complaint to the officer or agency as required by the rules may be made by certified mail beyond the territorial limits of the district in which the action is brought.”

1.3 **Service upon Administrative Officials.** Any officer or employee of the Department served with a summons and complaint in his official capacity shall immediately notify the Regional or Field Solicitor responsible for the legal work in that official's area. If an officer or employee so served with summons and complaint is not within an area served by a Regional or Field Solicitor he should report the matter promptly to the Deputy Solicitor.

1.4 **Action by Regional or Field Solicitors.** Upon the receipt of advice that an officer or employee of the Department has been thus served, the Regional or Field Solicitor so advised shall promptly notify the appropriate United States Attorney's office and appropriate Associate Solicitor or the Deputy Solicitor.

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