

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

First-Citizen Bank & Trust Company v. John P Heard, et al.

No. CV-25-02453-PHX-DWL, United States District Court for the District of Arizona (January 6, 2026)

SUMMARY

The United States District Court for the District of Arizona grants First-Citizen Bank & Trust Company’s motion for alternative service on Jill Heard. The court finds traditional service impracticable under Arizona Rule of Civil Procedure 4.1(k), authorizes posting, mailing, and emailing the pleadings and related documents, and extends the service deadline to February 2, 2026.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Dominic W. Lanza
JURISDICTION	United States District Court for the District of Arizona
DECIDED	January 6, 2026
DOCKET	CV-25-02453-PHX-DWL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to serve defendant Jill Heard by alternative means and for an extension of the service deadline. The motion was granted.
STANDARD OF REVIEW	The court evaluated whether Plaintiff had shown that the traditional means of service were impracticable and whether the proposed alternative means constituted a reasonable effort to provide actual notice.
PRECEDENTIAL VALUE	unknown
PARTIES	First-Citizen Bank & Trust Company v. John P Heard, et al.

TOPICS

- service of process
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation
- service of process

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated that the traditional means of serving Jill Heard were impracticable under Arizona Rule of Civil Procedure 4.1(k).
2. Whether Plaintiff's proposed combination of posting, mailing, and emailing the summons and pleadings constituted a reasonable effort to provide Jill Heard with actual notice.
3. Whether the deadline for serving Jill Heard should be extended.

HOLDINGS

1. Traditional means of service were impracticable because Plaintiff's repeated service attempts and address searches made service extremely difficult or inconvenient.
2. Posting the documents at Jill Heard's last known home address and the related business address, mailing them to both locations, and emailing them to two potential email addresses constituted a reasonable effort to provide actual notice.
3. The deadline for serving Jill Heard was extended to February 2, 2026.

KEY QUOTATIONS

“If a party shows that the means of service provided in Rule 4.1(c) through Rule 4.1(j) are impracticable, the court may—on motion and without notice to the person to be served—order that service may be accomplished in another manner” (at 2)

“The Court finds that the traditional means of service have proved to be impracticable.” (at 3)

FACTUAL BACKGROUND

Jill Heard was added as a defendant in the Second Amended Complaint, but Plaintiff was unable to personally serve her. A process server made two unsuccessful attempts at her reported residential address and three unsuccessful trips to the business address where John Heard had previously been served; the business office was locked each time. Plaintiff's counsel also searched court dockets and the Maricopa County Recorder's website for a current address without success.

PROCEDURAL HISTORY

Plaintiff filed the complaint on July 14, 2025, amended it on July 29, 2025, and filed a Second Amended Complaint adding Jill Heard as a defendant on October 3, 2025. Plaintiff successfully served John Heard and John Heard, CPA, LLC, but made multiple unsuccessful attempts to serve Jill Heard at her last known residence and at a related business address. Plaintiff then moved under Federal Rule of Civil Procedure 4(e) and Arizona Rule of Civil Procedure 4.1(k) for alternative service and an extension of time.

DISPOSITION

other

CASES CITED

- Blair v. Burgener, 245 P.3d 898, 901, 903-04 (Ariz. Ct. App. 2010)

OPINION

First-Citizen Bank & Trust Company v. John P Heard, et al.

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 First-Citizen Bank & Trust Company, No. CV-25-02453-PHX-DWL 10 Plaintiff, ORDER 11
v. 12 John P Heard, et al., 13 Defendants. 14 15 Pending before the Court is Plaintiff's motion for
leave to serve Defendant Jill 16 Heard via alternative means and for an extension of the service
deadline. (Doc. 22.) For 17 the reasons that follow, the motion is granted.

18 BACKGROUND

19 On July 14, 2025, Plaintiff filed the complaint. (Doc. 1.) Jill Heard was not named 20 as a
defendant in the complaint, although her spouse (John Heard) and a related entity (John 21 Heard,
CPA, LLC) were both named as defendants. 22 On July 29, 2025, Plaintiff filed a First Amended
Complaint ("FAC"), again naming 23 John Heard and John Heard, CPA, LLC as the only two
defendants. (Doc. 11.) 24 On October 3, 2025, Plaintiff filed its operative pleading, the Second
Amended 25 Complaint ("SAC"). (Doc. 17.) This version of the complaint added Jill Heard as a
26 defendant. (Id.) 27 On September 24, 2025, Plaintiff effected service on John Heard, CPA,
LLC, by 28 having a process server personally serve the SAC on John Heard at 4040 East
Camelback 1 Road #250, Phoenix, AZ 85018. (Doc. 20.) 2 On September 25, 2025, Plaintiff
effected service on John Heard by having a 3 process server personally serve the SAC on John
Heard at 4040 East Camelback Road 4 #250, Phoenix, AZ 85018. (Doc. 19.) 5 On October 6,
2025, Plaintiff obtained a summons issued to Jill Heard. (Doc. 21.) 6 A skip trace report obtained
by Plaintiff's process server indicates that Jill Heard's 7 residential address in October 2025 was at
a certain address on E. Glenrosa Avenue in 8 Phoenix. (Doc. 22-1.) On October 19, 2025,
Plaintiff's process server unsuccessfully 9 attempted to serve Jill Heard at that address. (Doc. 22-2
at 2.) The server's declaration 10 states: "There was no answer, no noise, house sounds empty. . . .
I drove in the alley and 11 there was no vehicle at this unit." (Id.) 12 On October 20, 2025,
Plaintiff's process server made a second unsuccessful attempt 13 to serve Jill Heard at that
address. (Id.) The server's declaration states: "There was no 14 answer so I went around to the
back and from the backyard I could see the house is empty." 15 (Id.) 16 Between October 20-31,
2025, Plaintiff's process server made three trips to the 17 business address for John Heard, CPA,
LLC (i.e., 4040 East Camelback Road #250, 18 Phoenix, AZ 85018) where John Heard had
previously been served. (Doc. 22-3 ¶ 6.) "Each 19 time, the office was locked." (Id.) 20 In October
2025 and again in December 2025, Plaintiff's counsel personally 21 searched various court
dockets in an attempt to locate a current address for Jill Heard. (Id. 22 ¶¶ 7-8.) Those attempts

were unsuccessful, although counsel did find “a Maricopa County 23 Superior Court case against John Heard that had been dismissed in 2024 for lack of 24 service.” (Id. ¶ 7.) Additionally, in December 2025, Plaintiff’s counsel personally 25 searched the Maricopa County Recorder’s website in an attempt to “locate a recent address 26 [for Jill Heard] other than” the address on E. Glenrosa Avenue, but that attempt was 27 unsuccessful. (Id. ¶ 9.) 28 On December 3, 2025, Plaintiff filed the pending motion for leave to serve by 1 alternative means and for an extension of the service deadline. (Doc. 22.)

2 DISCUSSION

3 Rule 4(e) of the Federal Rules of Civil Procedure provides that an individual (with 4 exceptions not relevant here) may be served in a judicial district of the United States by: 5 (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is 6 located or where service is made; or 7

(2) doing any of the following:

8 9 (A) delivering a copy of the summons and of the complaint to the individual personally; 10 11 (B) leaving a copy of each at the individual’s dwelling or usual place of abode with someone of suitable age and discretion 12 who resides there; or 13 (C) delivering a copy of each to an agent authorized by 14 appointment or by law to receive service of process. 15 Under Rule 4.1(d) of the Arizona Rules of Civil Procedure, an individual may be 16 served within Arizona using the same methods outlined in Rule 4(e)(2) of the Federal 17 Rules.

18 Rule 4.1(k) of the Arizona Rules provides for alternative means of service: “If a 19 party shows that the means of service provided in Rule 4.1(c) through Rule 4.1(j) are 20 impracticable, the court may—on motion and without notice to the person to be served— 21 order that service may be accomplished in another manner,” in which case “the serving 22 party must make a reasonable effort to provide the person being served with actual notice 23 of the action’s commencement” and must, at a minimum, “mail the summons, the pleading 24 being served, and any court order authorizing an alternative means of service to the last- 25 known business or residential address of the person being served.” 26 Arizona’s Rule 4.1(k) requires a showing of impracticability. Impracticability in 27 this context requires “something less than a complete inability to serve the defendant” and 28 even “something less than the ‘due diligence’ showing required before service by 1 publication may be utilized.” *Blair v. Burgener*, 245 P.3d 898, 901, 903-04 (Ariz. Ct. App. 2 2010). In the context of Rule 4.1(k), “impracticable” simply means that the traditional 3 means of service have proved to be “extremely difficult or inconvenient.” *Id.* at 903. 4 The Court finds that the traditional means of service have proved to be 5 impracticable. Plaintiff’s proposed alternative means of service—(1) posting copies of the 6 SAC, the summons, the preliminary order, and the order authorizing alternate service at 7 Jill Heard’s last known home address; (2) posting the same documents at John Heard’s 8 business address, which is still the location listed by the Arizona Corporation Commission 9 for statutory service for John Heard, CPA, LLC; (3) sending the same documents by U.S. 10 mail to both locations, in separate

envelopes addressed to John Heard and Jill Heard; and 11 (4) sending the same documents to Jill Heard's potential email addresses 12 (jill.heard.az@gmail.com and jill.heard4@gmail.com)—constitute “a reasonable effort to 13 provide the person being served with actual notice of the action's commencement.” Ariz. 14 R. Civ. P. 4.1(k)(2). 15 Accordingly, 16 IT IS ORDERED that: 17 1. Plaintiff's motion (Doc. 22) is granted. 18 2. Service on Jill Heard may be accomplished by (1) posting copies of the SAC, 19 the summons, the preliminary order, and the order authorizing alternate service at Jill 20 Heard's last known home address; (2) posting the same documents at John Heard's 21 business address, which is still the location listed by the Arizona Corporation Commission 22 for statutory service for John Heard, CPA, LLC; (3) sending the same documents by U.S. 23 mail to both locations, in separate envelopes addressed to John Heard and Jill Heard; and 24 (4) sending the same documents to Jill Heard's potential email addresses 25 (jill.heard.az@gmail.com and jill.heard4@gmail.com). 26 ... 27 ... 28 ... 1 3. The deadline for Plaintiff to serve Jill Heard is extended to February 2, 2026. 2 Dated this 6th day of January, 2026. 3 ° "Dominic W. Lanza 6 United States District Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 _5-