



Rule 4 Service

FOR DUMMIES



NCGS 1A-1, Rule 4(j)

- Manner of service
- 9 types of entities
- 7 most common
- Read 4(j)(8), 4(j)(9) and 4(j3) for extra credit



Timeframes

- 4(a) - Issuance of summons
 - Forthwith but at least within 5 days of complaint
- 4(c) - Return
 - Service within 60 days of issuance
- 4(d) - Extension
 - Alias and Pluries/ Endorsement
 - Within 90 days after last issuance



Personal Delivery

- NC
 - Sheriff of the County
 - Some other person authorized by law
- Out of state
 - Not a party AND at least 21
 - Anyone duly authorized by law



Mail

- Certified
 - Receipt at time of mailing
 - Record of delivery
 - Travels as ordinary mail
- Registered
 - Receipt at time of mailing
 - Signed for each time it changes hands
 - Kept under lock and key



Mail

- Return Receipt Requested (RRR)
 - Unrestricted
 - Restricted to addressee only



Delivery Service

- IRS designates 26 U.S.C. 7502(f)(2)
 - Airborne Express
 - DHL Worldwide Express
 - Federal Express
 - UPS



4(j)(1) Natural Person

- Delivery to person
- Leave with suitable age AND discretion at dwelling house OR usual place of abode
- Registered OR certified AND return receipt requested addressed to party AND delivering to addressee.



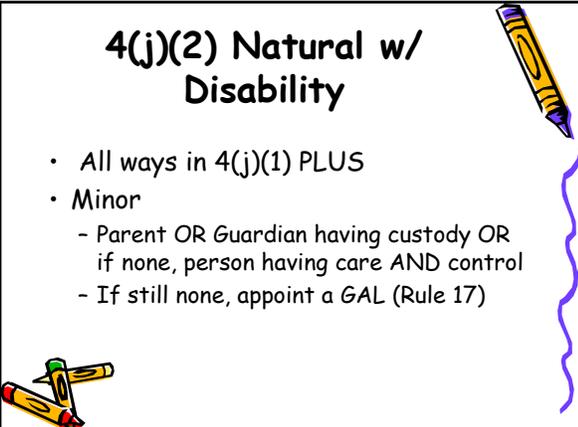
4(j)(1) Natural Person

- Delivery service, addressed to party, delivered to party AND obtain delivery receipt.
- USPS signature confirmation addressed to party AND delivered to party.



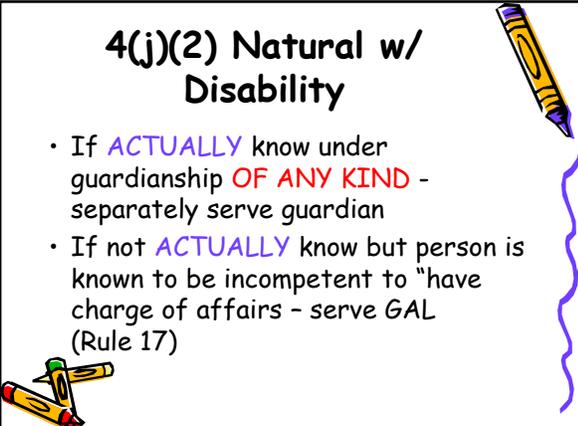
4(j)(2) Natural w/ Disability

- All ways in 4(j)(1) PLUS
- Minor
 - Parent OR Guardian having custody OR if none, person having care AND control
 - If still none, appoint a GAL (Rule 17)



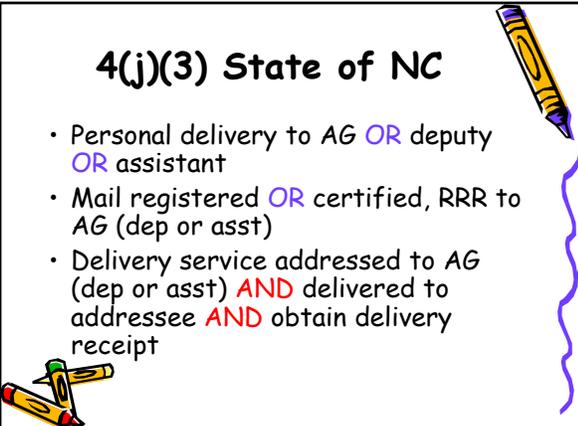
4(j)(2) Natural w/ Disability

- If **ACTUALLY** know under guardianship **OF ANY KIND** - separately serve guardian
- If not **ACTUALLY** know but person is known to be incompetent to "have charge of affairs - serve GAL (Rule 17)



4(j)(3) State of NC

- Personal delivery to AG OR deputy OR assistant
- Mail registered OR certified, RRR to AG (dep or asst)
- Delivery service addressed to AG (dep or asst) AND delivered to addressee AND obtain delivery receipt



4(j)(4) Agency of State

- Agency, institution, board, commission, bureau, department, division, council, member of Council of State or officer of State govt
- Process agent appointed
 - Name and address filed with AG
 - Personal Delivery
 - Mail registered/certified RRR addressed to agent
 - Delivery service addressed/delivered to agent with delivery receipt
- If no agent serve AG as in 4(j)(3)



4(j)(5) Counties/Cities

- City/Town/Village
 - Mayor, City Manager OR Clerk
 - Personal Delivery
 - US Mail/Delivery Service
- County
 - County Mgr/Chairman/Clerk OR any member of the Board of Commissioners
 - Personal Delivery
 - US Mail/Delivery Service



4(j)(5) Political subdivision/Board of Ed

- Personal delivery to officer OR director OR to agent or attny in fact (authorized by appt or statute)
- Mail/Delivery Service

If none of the named people can be found in state:

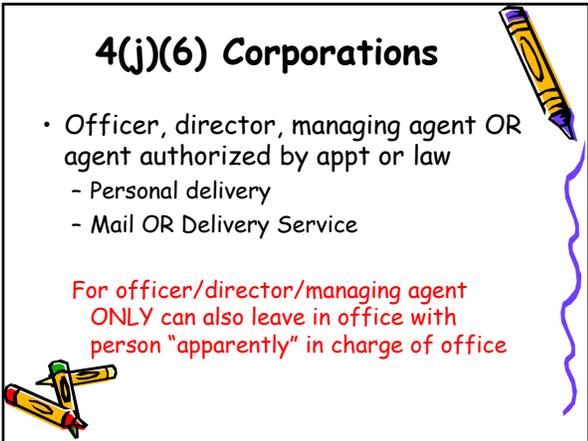
- Due diligence/Affidavit
- Judicial Order
- Serve AG as in 4(j)(3)



4(j)(6) Corporations

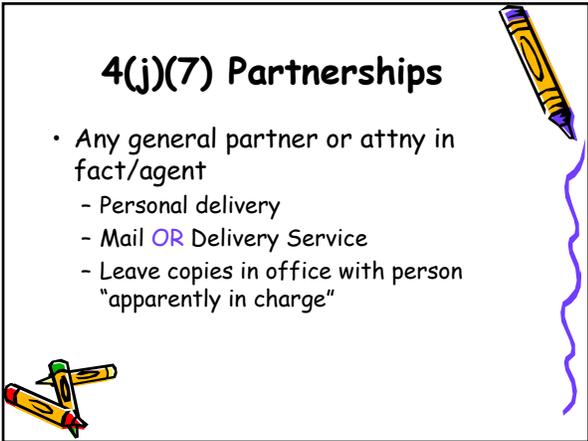
- Officer, director, managing agent OR agent authorized by appt or law
 - Personal delivery
 - Mail OR Delivery Service

For officer/director/managing agent ONLY can also leave in office with person "apparently" in charge of office



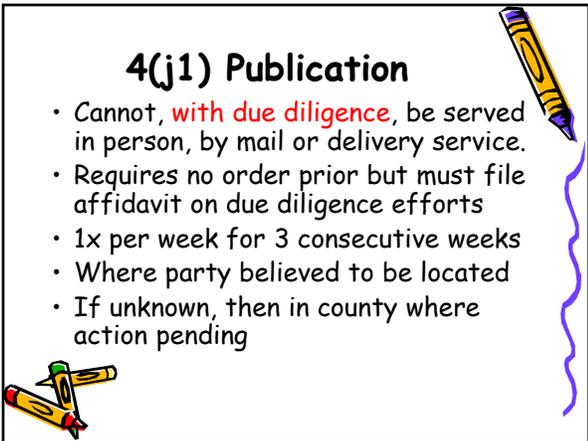
4(j)(7) Partnerships

- Any general partner or attny in fact/agent
 - Personal delivery
 - Mail OR Delivery Service
 - Leave copies in office with person "apparently in charge"



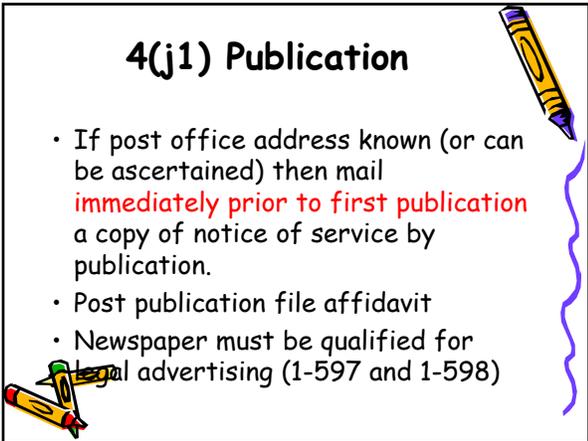
4(j1) Publication

- Cannot, **with due diligence**, be served in person, by mail or delivery service.
- Requires no order prior but must file affidavit on due diligence efforts
- 1x per week for 3 consecutive weeks
- Where party believed to be located
- If unknown, then in county where action pending



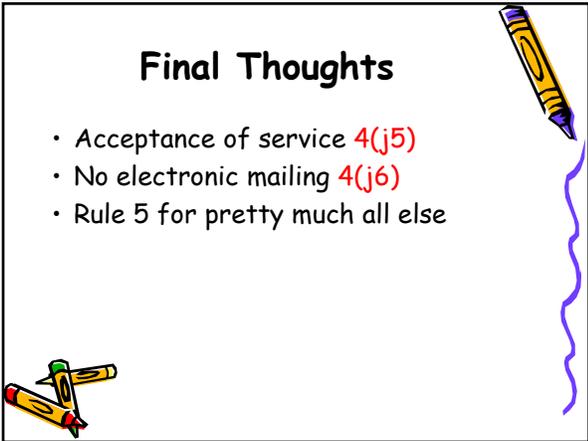
4(j1) Publication

- If post office address known (or can be ascertained) then mail **immediately prior to first publication** a copy of notice of service by publication.
- Post publication file affidavit
- Newspaper must be qualified for legal advertising (1-597 and 1-598)



Final Thoughts

- Acceptance of service **4(j5)**
- No electronic mailing **4(j6)**
- Rule 5 for pretty much all else





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