

Topic: Service of Process
 Question by: Kathy M. Sachs
 Jurisdiction: Kansas
 Date: April 13, 2018

Jurisdiction	Question(s)
	<p>My division was recently given the duty of handling service of process when service has been unsuccessful at the Resident Agent address. It's been a duty of our office for a very long time but handled in another area. I understand our duty when the entity is a foreign entity that is qualified to do business in Kansas but I'm lost when it comes to an entity that "transacts business without authority in this state". It's a terribly worded statute and I'm wondering if anyone else has similar language.</p> <p>Our staff has been calling other jurisdiction to get the principal office address. I don't think we should be taking on that responsibility. I think we should require the person requesting service to provide the correct address for another jurisdiction.</p> <p>Any thoughts would be appreciated.</p>
Manitoba	
Corporations Canada	
Alabama	
Alaska	
Arizona	
Arkansas	
California	
Colorado	
Connecticut	
Delaware	
District of Columbia	<p>In Washington DC we are like our neighbor state of Virginia.</p> <p>We will accept service on unregistered entities but require for last known address to be on the form before service is rendered. If entity is not on record then we cannot serve them without that address. Looking up other Registrar's website have not been the good option as not all Registrars have free web searches and most importantly there are too many entities with similar names in many jurisdictions.</p>

Jurisdiction	Question(s)
	<p>My division was recently given the duty of handling service of process when service has been unsuccessful at the Resident Agent address. It's been a duty of our office for a very long time but handled in another area. I understand our duty when the entity is a foreign entity that is qualified to do business in Kansas but I'm lost when it comes to an entity that "transacts business without authority in this state". It's a terribly worded statute and I'm wondering if anyone else has similar language.</p> <p>Our staff has been calling other jurisdiction to get the principal office address. I don't think we should be taking on that responsibility. I think we should require the person requesting service to provide the correct address for another jurisdiction.</p> <p>Any thoughts would be appreciated.</p>
Florida	
Georgia	
Hawaii	
Idaho	
Illinois	
Indiana	
Iowa	
Kansas	
Kentucky	
Louisiana	
Maine	
Maryland	
Massachusetts	
Michigan	
Minnesota	
Mississippi	
Missouri	
Montana	
Nebraska	
Nevada	
New Hampshire	

Jurisdiction	Question(s)
	<p>My division was recently given the duty of handling service of process when service has been unsuccessful at the Resident Agent address. It's been a duty of our office for a very long time but handled in another area. I understand our duty when the entity is a foreign entity that is qualified to do business in Kansas but I'm lost when it comes to an entity that "transacts business without authority in this state". It's a terribly worded statute and I'm wondering if anyone else has similar language.</p> <p>Our staff has been calling other jurisdiction to get the principal office address. I don't think we should be taking on that responsibility. I think we should require the person requesting service to provide the correct address for another jurisdiction.</p> <p>Any thoughts would be appreciated.</p>
New Jersey	
New Mexico	
New York	
North Carolina	
North Dakota	
Ohio	
Oklahoma	
Oregon	
Pennsylvania	
Rhode Island	
South Carolina	
South Dakota	
Tennessee	
Texas	
Utah	<p>We do not have this problem in Utah because we passed the Model Registered Agent Act and we no longer take service on any business entity.</p>
Vermont	

Jurisdiction	Question(s)
	<p>My division was recently given the duty of handling service of process when service has been unsuccessful at the Resident Agent address. It's been a duty of our office for a very long time but handled in another area. I understand our duty when the entity is a foreign entity that is qualified to do business in Kansas but I'm lost when it comes to an entity that "transacts business without authority in this state". It's a terribly worded statute and I'm wondering if anyone else has similar language.</p> <p>Our staff has been calling other jurisdiction to get the principal office address. I don't think we should be taking on that responsibility. I think we should require the person requesting service to provide the correct address for another jurisdiction.</p> <p>Any thoughts would be appreciated.</p>
Virginia	<p>I suggest that the burden of proving that a defendant transacted business in the state without authority is on the party making substituted service on the secretary of state. It will be up to the court or tribunal before which the matter is pending to make this determination, which means that the defendant might need to make a limited appearance to quash the service (because business was not conducted in the state).</p> <p>I agree that it is unduly burdensome to require the secretary of state's office to ascertain a defendant's registered or principal office address in another state. Virginia's statute requires the party seeking service to supply us with the defendant's last known mailing address. See Section 12.1-19.1 of the Code of Virginia. Kansas might want to adopt this model. I'm sure Delaware's SOS office would be appreciative!</p>
Washington	
West Virginia	
Wisconsin	
Wyoming	

Additional comments:

Full text of email:

My division was recently given the duty of handling service of process when service has been unsuccessful at the Resident Agent address. It's been a duty of our office for a very long time but handled in another area. I understand our duty when the entity is a foreign entity that is qualified to do business in Kansas but I'm lost when it comes to an entity that "transacts business without authority in this state". It's a terribly worded statute and I'm wondering if anyone else has similar language.

Our staff has been calling other jurisdiction to get the principal office address. I don't think we should be taking on that responsibility. I think we should require the person requesting service to provide the correct address for another jurisdiction.

Any thoughts would be appreciated.

Service by return receipt delivery on an officer, partner or agent must be addressed to the person at the person's usual place of business.

(f) Resident agent for a corporation, limited liability company, limited partnership or limited liability partnership. A domestic corporation, domestic limited liability company or domestic limited partnership, and, if it is authorized to transact business or transacts business without authority in this state, a foreign corporation, foreign limited liability company or foreign limited partnership irrevocably authorizes the secretary of state as its agent to accept on its behalf service of process, or any notice or demand required or permitted by law to be served on it, when: (1) It fails to appoint or maintain in this state a resident agent on whom service may be had; or (2) its resident agent cannot with reasonable diligence be found at the registered office in this state. Service on the secretary of state of any process, notice or demand must be made by delivering to the secretary of state, by personal service or by return receipt delivery, the original and two copies of the process and two copies of the petition, notice or demand. When any process, notice or demand is served on the secretary of state, the secretary must promptly forward a copy of it by return receipt delivery, addressed to the corporation, limited liability company or limited partnership at its principal office as it appears in the records of the secretary of state, or at the registered or principal office of the corporation, limited liability company or limited partnership in the state of its incorporation or formation. The secretary of state must keep a record of all processes, notices and demands served on the secretary under this subsection, and must record the time of the service and the action taken by the secretary. A fee of \$40 must be paid to the secretary of state by the party requesting the service of process, to cover the cost of serving process, except the secretary of state may waive the fee for state

agencies. The fee must not be included in or paid from any deposit as security for costs or the docket fee required by K.S.A. 60-2001 or 61-4001, and amendments thereto.

KATHY M. SACHS | Business Services

Deputy Assistant Secretary of State

Kansas Secretary of State | 785-296-4564 P | 785-296-4570 F | www.sos.ks.gov

Memorial Hall, 1st Floor | 120 S.W. 10th Avenue | Topeka, KS 66612-1594