

**SERVICE INSTRUCTIONS AND AFFIDAVIT OF SERVICE REQUIREMENTS
REGARDING SECTION 253 OF THE VEHICLE AND TRAFFIC LAW**

Vehicle and Traffic Law, Section 253, provides a method for service on a non-resident of the State of New York who is sued on a cause of action arising out of an accident or collision in which s/he is involved while operating a motor vehicle in New York State.

- A. Service under this section is accomplished by either:
1. mailing a copy of the Summons and Complaint to the Secretary of State in Albany, *or*
 2. by personally delivering a copy of the Summons and Complaint to one of the local offices for the Secretary of State.

Before sending the material, contact the Secretary of State in order to ascertain the location to which to mail it, and the method of payment of the required fee. At the time of publishing this information sheet there is a fee of \$10.00 for this service. This may change by state statute at any time.

B. After sending or delivering a copy of the Summons and Complaint to the Secretary of State as described above, you must, in addition, either:

1. Send to the Defendant by Certified Mail, Return Receipt Requested:
 - a) Notice* of the Service of the Summons and Complaint on the Secretary of State *and*
 - b) a copy of the Summons and Complaint,

or

2. Have a duplicate copy of the Summons and Complaint which was served on the Secretary of State personally served on the _____ Defendant by:
 - a) a New York State resident
 - b) a local service officer

C. Within thirty (30) days of service the plaintiff must file with the Clerk either:

1. An *Affidavit of Compliance with VTL § 253 (CIV-GP-73)*. For this purpose the thirty day period begins to run when the plaintiff receives:

- a) the Certified Mail Return Receipt(s), *or*
- b) a notation by postal authorities that receipt was refused. In this circumstance, the plaintiff must also file with the Clerk an Affidavit of Service that notice of such mailing and refusal was sent to the Defendant by ordinary mail. *or*
- c) a notation by postal authorities that the mailing was unclaimed. In this circumstances, the plaintiff must also mail a copy of the Summons and Complaint by ordinary mail and file with the Clerk a Proof of Mailing Certificate that it was posted again by ordinary mail.

or

2. an *Affidavit of Service* indicating that papers were personally delivered to the defendant by:
 - a) a New York State resident, or
 - b) a local serving officer.

Service is complete at the time of the filing of the Affidavit of Compliance or the Affidavit of Service.

This service provision takes precedence over CCA § 409 and permits timely filing after our normal 14-day requirement.

*A Notice is a written statement, addressed to the Defendant, informing him/her that a copy of the Summons and Complaint was served upon (sent to) the Secretary of State. You may use form for this purpose.