

Measuring The Effectiveness Of Summons And Notification By Registered Mail In Civil Cases At The Denpasar District Court

Diah Yustiasari¹, Ni Ketut Wiratny², Erikson Sihotang³

Universitas Mahendradatta, Indonesia

E-mail: dee_varia@yahoo.com¹, wiratny@gmail.com², eriksonsihotang1@gmail.com³

ABSTRACT

The summons and notification process in civil cases is a very important initial stage in resolving disputes in court. An illegal summons or inappropriate notification can result in the decision being annulled or even delaying the judicial process, which is certainly detrimental to the parties to the dispute. In Indonesia, especially at the Denpasar District Court, one of the methods used for summons and notification is by registered letter. This method was chosen because it is considered more formal and has reliable proof of delivery. However, the effectiveness of using registered letters as a means of summons and notification in civil cases needs to be evaluated. This is important to ensure that this method can actually achieve its objective, namely providing valid and timely notification to the parties to the dispute. The effectiveness of this method will have a direct impact on the smooth running of the judicial process and legal certainty for the parties involved. This research was conducted both empirically and normatively research to find the effectiveness of using registered letters as a way to summon litigants in civil cases at the Denpasar District Court. The facts obtained on the ground are that many court summons are not properly delivered to the litigants, and then court summons that failed to be sent will be returned to the Denpasar District Court without a stamp from the Village Chief as required by the provisions. In this case, evaluation is needed from both parties, the Denpasar District Court and PT Pos Indonesia, so that the summons and notification via registered letter can be carried out effectively and by applicable regulations.

Keywords: Court Summons, Registered Letter, Judicial Trilogy, Cooperation Agreement

Introduction

Judiciary is anything or a process carried out by a court whose task is to examine, try and decide a case by applying the law and/or making a new law "In concerto", to maintain material law by carrying out procedures established by formal law (Dewantoro, 2023) One of the most important processes in the trial process is the summoning of the parties. The summoning of the parties to attend the trial is the beginning of a series of court proceedings. Based on the summons, the Judge examines and tries and decides the case handled. Article 17 of Supreme Court Regulation Number 7 Year 2022 regulates the summoning of parties in electronic trials. Article 17 paragraph

(2) of the Supreme Court Regulation states that if the Defendant does not have an electronic domicile, the summons or notification is carried out through a registered letter.

Summons using registered mail have long been practiced by the State Administrative Court considering the breadth of jurisdiction covering provincial jurisdictions and the absence of Bailiffs or substitute Bailiffs in the State Administrative Court. However, with Supreme Court Regulation Number 7 of 2022, summoning parties using registered mail has become a new thing to do for civil cases, and is even practiced in sending notices in criminal cases. A bailiff is a civil servant who carries out bailiff duties as determined by Article 6 (1) of Law no. 2 of 1986 concerning General Courts or Article 103 (1) of Law no. 7 of 1989 concerning Religious Courts which states that each bailiff is appointed and dismissed by the minister, namely the Minister of Justice and Human Rights and the Minister of Religion on the recommendation of the Chief Justice. The Substitute Bailiff is the executor of the duties of the bailiff at the General Court and Religious Court who is appointed and dismissed by the Chief Justice (Erwin, 2023).

On July 5, 2023, the Supreme Court again issued Supreme Court Circular Letter Number 1 of 2023 concerning Procedures for Summons and Notices by Registered Mail. This Circular Letter No. 1 Year 2023 is a procedure for the implementation of Article 7 paragraph (2) of Supreme Court Regulation No. 7 Year 2022 regarding the summoning of parties using registered mail. It is expected that with the issuance of this SEMA, summons made using registered mail will be more effective. With the registered mail mechanism, the summoning of the parties is no longer carried out directly by the Court Bailiff but is carried out by PT Pos Indonesia Officers. To accommodate the cooperation between the Supreme Court and PT Pos Indonesia in terms of summons through registered mail, the Supreme Court entered into a Cooperation Agreement with PT Pos Indonesia as stated in the cooperation agreement document number 02/HM.00/PKS/V/2003 - PKS 106/DIR-5/0523 on May 22, 2023.

Summons and notifications in civil proceedings are crucial elements in ensuring a fair and transparent judicial system. These mechanisms ensure that parties involved in legal disputes have sufficient and timely knowledge of ongoing legal processes, allowing them to adequately prepare for effective participation. In Indonesia, particularly at the Denpasar District Court, summons and notifications are often conducted through registered mail, a method considered reliable in ensuring the accuracy of delivery to the intended recipients. However, in practice, the use of registered mail as a method for summons and notification often encounters various challenges. Some parties argue that this method is not always effective in ensuring that the summons and notifications actually reach the hands of the intended recipients. Delays in delivery, inaccurate addresses, and failures in receiving the mail can lead to the absence of the summoned party at the court proceedings, which in turn can affect the smooth operation of the judicial process.

Based on research results, (Dewantoro, 2023), revealed, On proof of registered letter summons, the postal officer did not provide information on the status of the party

who received the court summons letter and what the family relationship was between the party who received the court summons letter at the house and the defendant to whom the summons letter was addressed. The absence of this information can give rise to legal consequences in court, even though according to civil procedural law and Perma Number 7 of 2022, if the destination address is empty or uninhabited, the postal officer still has to deliver the summons document to the village head or village head or village apparatus whose government area includes the destination address.

Moreover, although registered mail is legally considered proof that a summons or notification has been sent, in reality, this does not always guarantee that the party in question has actually received and understood the contents of the summons or notification. This situation raises questions about the effectiveness of registered mail as a tool for ensuring legal certainty and fairness for the parties involved in civil cases. The effectiveness of this mechanism needs to be measured to ensure that the civil judicial system in Indonesia, particularly at the Denpasar District Court, operates in accordance with the fundamental principles of justice and transparency. If this mechanism proves to be ineffective, a review and possible revision of the summons and notification procedures may be necessary to ensure that all parties in civil cases have a fair opportunity to participate in the legal process.

If we look at the background above, we can take the formulation of the problem, namely the first is the effectiveness of summoning the parties by registered letter in civil cases in the jurisdiction of the Denpasar District Court if it is related to the principles of fast, simple and low-cost justice, then the second problem is what obstacles are encountered in the implementation of summoning the parties by registered letter in civil cases in the jurisdiction of the Denpasar District Court.

To find out the effectiveness of summoning the parties by registered letter in civil cases in the jurisdiction of the Denpasar District Court if it is related to the principles of fast, simple, and low-cost justice, then find out what obstacles are encountered in the implementation of summoning the parties by registered letter in civil cases in the jurisdiction of the Denpasar District Court.

Research Method

The research method in the context of writing this journal is normative research supported by empirical research. Normative legal research is legal research conducted by examining legal materials (Soemitro, 1983). The author conducts research on legal norms contained in the legislation, then combined with empirical legal research is research conducted based on the realities and practices that occur in the field in this case, especially when the author makes observations at the Denpasar District Court.

This research uses a normative approach to analyze the effectiveness of the summons and notification mechanism in civil cases at the Denpasar District Court via registered mail. A normative approach would include: Document and Literature Study: The research will examine the legal regulations governing summons and notification procedures in civil cases, such as the Civil Code, HIR/RBg, and related Supreme Court

regulations. Additionally, this research will examine relevant legal literature to understand the concepts and theories underlying the effectiveness of summonses and notifications. **Juridical Analysis:** Through juridical analysis, research will evaluate the conformity between practices in the field and applicable legal provisions. This will include interpretation of the law as well as identification of potential discrepancies or problems in the implementation of the rules.

Primary Data Collection: The research will collect primary data through in-depth interviews and questionnaires with related parties, such as judges, clerks, and parties summoned in civil cases. Interviews will help in revealing practical experiences and challenges faced in the use of registered mail for summons and notifications. **Field Observation:** Researchers will conduct direct observations at the Denpasar District Court to understand the process of implementing summons and notifications via registered mail. These observations will provide a real picture of the practice and effectiveness of the process. **Empirical Data Analysis:** Data obtained from interviews, questionnaires and observations will be analyzed qualitatively to identify patterns, challenges and effectiveness of the use of registered letters in civil legal processes. These empirical findings will be compared with the existing normative framework. The results of the normative and empirical approaches will be combined to provide a comprehensive picture of the effectiveness of summons and notifications via registered mail at the Denpasar District Court. This research will identify gaps between legal theory and practice in the field and provide recommendations for improving these procedures.

Result and Discussion

Implementation of Summons and Notice by Registered Mail in the Legal Area of Denpasar District Court

In every case settlement in the District Court, it always begins with summoning the parties to appear at the trial. The summoning of litigants is a must for every court, where if this summoning process is not carried out or not carried out properly, the trial process itself will experience obstacles. Then based on the summons, the Judge examines, hears, and decides the case he is handling. If after the case is decided the parties in a civil case who are not present will receive written notification from the Court through the bailiffs. This notification of the decision is a final series that cannot be separated from the series of trials and this is done if there are parties who are not present at the trial.

The definition of summoning means a process of calling and inviting by name and so on a person or group to come or attend and face the person who calls (Widiyanto & Sudarmaji, 2022). According to Yahya Harahap, summons or summons (convocation, convocation) in a narrow sense is an order to attend a hearing on a specified day. The call in a broad sense includes the legal act of notification or *aanzegging* (notification), which includes; notification of the decision of the High Court and the Supreme Court, request for appeal, appeal memory, counter-appeal memory, and others. So if the definition of summons is used in the civil procedure court process, it means to convey

officially (official) and properly (properly) to the parties involved in a case in court, to fulfill and carry out the things requested and ordered by the panel of judges or the court (Harahap, 2017). While the summons and or notice by registered mail is a summons and or notice delivered to the parties by mail addressed to the recipient at the recipient must be proven by a receipt from the recipient by stating the date of receipt (SEMA, 2023a). The definition of a registered letter is a letter that is addressed to the recipient and can be proven by a receipt from the recipient with a receipt (Kerjasama, 2023).

This summons is carried out by the Bailiff or Bailiff substitute for the Court to convey a message or information to someone so that he knows about everything that the opposing party wants to do or an action that will be carried out by the court (Sutantio & Oeripkartawinata, 2009). The summoning process in the trial of civil cases has an important meaning in preventing losses experienced by the parties in court and implementing a good Civil Procedure Law process more optimally.

Based on the Judge's order, the Bailiff/ Substitute Bailiff sends a summons to the Electronic domicile of the parties through the court Information System. An electronic summons/notice is a valid and proper summons/notice as long as the summons/notice is sent to the electronic domicile within the period specified by law (Perundang-undangan, 2018) However, if the Defendant has been summoned to the electronic domicile address stated in the lawsuit but is not present, further summons will be made by Registered Mail (Peraturan Mahkamah Agung, 2022).

The mechanism for summoning by registered mail is that after receiving an order to summon from the Panel of Judges, the Court Bailiff makes and prints the Summons Relaas and then submits the relaas to the PT Pos Indonesia officer. Furthermore, the PT Pos Indonesia officer picks up the release to the Court (pick-up services) and delivers the release to the parties by the names and addresses stated in the release. All delivery of Registered Mail sent through postal officers by the Cooperation Agreement between the Supreme Court and PT Pos Indonesia must fulfill the requirements as stipulated in Article 3 of the Cooperation Agreement on Delivery of Registered Mail Documents between the Supreme Court as the first party and PT Pos Indonesia (Persero) as the second party Number 02/HM.00/PKS/V/2023, Number: PKS 106/Dir-5/0523.

SEMA No. 1 of 2023 concerning Procedures for Summons and Notices by Registered Mail Summons and/or notices stipulate that they must be delivered directly (on hand delivery) to the parties, but if they cannot be delivered directly, they are delivered to an adult who lives in the house of the parties. an adult who lives in the same house with the parties (SEMA, 2023b). However, if the summons and/or notice is delivered on hand delivery, the parties are unwilling to accept and/or unwilling to sign the receipt, the officer of the registered mail delivery service provider shall electronically record that the parties are unwilling to accept and/or unwilling to sign and the letter shall be returned to the court (return) (SEMA, 2023b).

If the parties reside in a place with limited access such as an apartment/flat house/other residence access such as apartments/flats/other residences of the same of the same type, summons and/or notices that cannot be delivered directly (on hand delivery)

to the parties or to an adult who lives in the same house shall be delivered to the receptionist/security officer at the residence (SEMA, 2023b).

For the delivery of the summons and/or notices to the person who lives in the same house with the parties and the receptionist/security officer in the apartment/flat house/another similar residence, it can only be done in the event:

- a. The recipient is not an opposing party in the relevant case, and
- b. the recipient is willing to be photographed along with his/her identity card concerned

If the person who lives in the same house and the receptionist/security officer in the apartment/flat house/other similar residence as referred to above are not willing to be photographed along with their identity card, the summons and/or notification shall be delivered through the local lurah or village head (including village officials).

If the house of the parties is uninhabited, a photo of the house must be included, then the summons and/or notification is delivered through the local village head or village head (including village/village officials) after making 2 (two) deliveries to the parties' addresses on the same day or if the second delivery can't be made on the following day (SEMA, 2023b).

If the summons and/or notice is returned to the court (return) because the address is not found or the parties do not live at the address and their current whereabouts are no longer known either inside or outside the territory of the Republic of Indonesia, the summons and/or notice will then be made through the mechanism of public summons (SEMA, 2023b).

If the summons has been served but the address of the parties is not found, the parties do not live at the address, or the parties have passed away, such circumstances can only be stated by a statement from the local lurah or village head (including village officials) (SEMA, 2023b).

The summons must be sent by registered mail at least 6 (six) calendar days before the hearing and received properly by the parties at least 3 (three) working days before the hearing unless otherwise specified in the laws and regulations (SEMA, 2023b). Delivery of summons and/or notification by registered mail must be accompanied by proof/information of receipt that can be electronically accessed through PT Pos Indonesia's postal tracking application.

Effectiveness of Summons and Notices by Registered Mail in Civil Cases at Denpasar District Court

According to the opinion of Soerjono Soekanto whether a law is effective or not can be seen from five factors, namely:

1. The law itself
2. Law enforcement
3. Means
4. Society,
5. Culture (Soekanto, 2011).

About the summons and notification by registered letter that has been implemented in the Denpasar District Court, the summons by registered letter is

effective in fulfilling the principle of low-cost justice, because it can reduce the nominal payment of case fees that must be paid, where previously the summons fee was calculated based on the radius of the residence of the litigant, but after the implementation of the summons by registered letter the cost is much cheaper because it follows the registered letter delivery rate from PT Pos Indonesia. However, this is still with the note that the summons is successfully carried out to the person concerned or the person who lives in the same house as the person concerned so that the case fee does not need to be added. However, if the summons by registered letter is returned because it fails to meet the address concerned, based on the author's experience, the Panel of Judges will order the summons to be repeated through the Bailiff and order the party to pay the court fee.

However, about the principle of a simple and speedy trial, summons and notifications by registered letter were still not effective because many summons or notifications were returned to the Court without a stamp from the Village Office to indicate receipt. Whereas if the summons fails to be delivered to the litigant to determine the validity of the summons there must be a receipt stamp from the Village Office. The expected simple process is also unlikely to be realized because the summons and notification by registered letter involve two different agencies and have different working procedures. Although the working procedures for carrying out court summons and notification of Court documents by registered mail have been set out in a cooperation agreement, the process is far from simple.

Obstacles in Summons and Notices by Registered Mail in Civil Cases at the Denpasar District Court

As described above, summons and notifications by registered letter are still not effective because they still encounter the following obstacles:

1. There are differences in procedures between the Supreme Court and PT Pos Indonesia between what is stipulated in SEMA Number 1 Year 2023 and the procedures of PT Pos Indonesia in carrying out delivery so that registered letters that fail to be sent are returned to the Court without a stamp from the village head. This has a direct effect during the trial where the Judge has difficulty assessing whether or not the summons is valid;
2. There are still registered letters that are returned to the Court not on time which affects the hearing, the Judge again has difficulty assessing whether the summons is valid or not because there is no proof of summons;
3. Many officers of PT Pos Indonesia do not understand the procedures for summons and notices from the court to be valid and proper and only follow the procedures specified in the cooperation agreement between the Supreme Court and PT Pos Indonesia, delivery officers are not required to meet with the parties concerned as the summons of the trial conducted by the bailiff.

Conclusion

Summonses and notifications by registered letter at the District Court were ineffective because many summonses were returned to the court without a receipt stamp from the village head, making it difficult for judges to assess the validity of the summons. In addition, the principles of speedy, simple, and low-cost justice have not been achieved because the summons process involves the Supreme Court and PT Pos Indonesia, making it inefficient. Returned summonses could add to the cost of the case because the judge had to order a re-summoning through the court bailiff to ensure the validity of the summons. Another obstacle is the difference in procedures between the Supreme Court and PT Pos Indonesia, as well as the lack of understanding of delivery officers about what constitutes a valid and legally proper summons. Evidence of untimely delivery also makes it difficult for judges to assess the validity of the summons. Coordination and evaluation between the two parties are needed so that summons or notices can be delivered according to the rules.

Bibliography

- Dewantoro. (2023). The Effectiveness of Summoning Registered Letters in Creating a Simple, Fast, and Low-Cost Justice (After Supreme Court Regulation Number 7 of 2022). *Journal of Justitia Law*, 3(2).
- Erwin, R. H. G. F. M. A. H. (2023). indexChanges in the Authority of the Bailiff in Summoning the Litigants at the Sukadana Religious Court. *Journal of Constitutional Law*, 3(2), 153–164.
- Harahap, M. Y. (2017). *Civil procedure law: about lawsuits, trials, seizures, proofs, and court decisions*. Sinar Grafika.
- Cooperation, S. agreement. (2023). *Article 1 number 4 Cooperation Agreement on the Delivery of Registered Letter Documents Between the Supreme Court of the Republic of Indonesia and PT Pos Indonesia Persero Number 02/HM.00/PKS/V/2023, Number: PKS 106/Dir-5/0523*.
- Supreme Court Regulation. (2022). *Regulation of the Supreme Court of the Republic of Indonesia Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019 concerning Case Administration and Trials in Court Electronically*. Legal Documentation and Information Network of the Supreme Court of the Republic of Indonesia. <https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-7-tahun-2022/detail>
- Legislation, P. (2018). *Electronic Case Administration and Trials in Court*. Regulatory Data Base. <https://peraturan.bpk.go.id/Details/206067/perma-no-1-tahun-2019>
- SEMA. (2023). *Circular Letter Number 1 of 2023 concerning Summons and Notification Procedures Through Registered Letters*. Legal Documentation and Information Network of the Supreme Court of the Republic of Indonesia. <https://jdih.mahkamahagung.go.id/legal-product/sema-nomor-1-tahun-2023/detail>
- Soekanto, S. (2011). *Factors affecting law enforcement*.
- Soemitro, R. H. (1983). *Legal research methodology*.

- Sutantio, R., & Oeripkartawinata, I. (2009). *Civil procedure law in theory and practice*. Mandar Maju.
- Widiyanto, H., & Sudarmaji, W. (2022). *Civil Procedure Law Textbook*.
- M.H, Nandang Sunandar, S. H. Execution of Civil Judgments: The Execution Process at the Theoretical and Practical Level. Nuansa Cendekia, 2021.
- Sudikno Mertokusumo, 2019, Indonesia Civil Procedure Law, Yogyakarta: Cahaya Atma Pustaka.
- Sudirman, Procedural Law of Religious Courts, IAIN Parepare Nusantara Press, 2021
Law Number 50 of 2009 concerning Religious Courts, article 1 paragraph (5)
- Yustisia, Vision Team. Civil Code (Civil Procedure Code) & Civil Procedure Code (Civil Procedure Code). VisiMedia, 2015



licensed under a
Creative Commons Attribution-ShareAlike 4.0 International License