

LAW NO. 21,394: MAIN MODIFICATIONS TO THE PROCEDURE FOR CIVIL AND COMMERCIAL MATTERS BEFORE CIVIL COURTS

On November 30, 2021, Law No. 21,394 was published, introducing a set of reforms to the justice system to promote efficiency in judicial proceedings and to limit the need for physical presence in Courts. In addition, on December 13, 2021, the Supreme Court issued Act N°271-2021, enacting a decree (auto acordado) to regulate the remote appearance at pleadings and hearings before courts with civil jurisdiction, the Courts of Appeals and the Supreme Court.

Therefore, there are amendments to several rules of the Organic Code of Courts, the Code of Civil Procedure and the Electronic Processing Law, regarding the following aspects of the civil procedure:

Serving of process:

•Serving of process according to Article 44 of the Code of Civil

Procedure: If a second attempt of personal serving of process cannot be achieved, the process server may execute it by delivering a letter to the notified party, without need for further judicial authorization. A written record of this situation shall be made in the docket.

•**Serving of process by email:** Final judgement, the decision to open the probatory term within the procedure, and those which order personal appearance of the parties, as well as other specific situations determined by the court, may be served by electronic means, without the need of consent of the notified party but always upon request to the court of the interested party.

•**Parties must provide an e-mail address where they can receive information regarding judicial decisions during the trial:** Attorneys of each party must provide in the lawsuit and its answer a form of electronic notification for themselves, that the judge may accept if such form is found prompt and effective. Otherwise, the party may be notified by the sole publication of the decision in a public daily list of judicial resolutions that the court informs according to Article 50 of the Code of Civil Procedure (estado diario).

•**Electronic notifications of appointments:** The judicial decisions in

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which appointments are made, as in the case of experts and auctioneers, shall be made by electronic means of notification.

•Jurisdiction of judicial servers in Santiago Metropolitan Region:

Judicial servers of the Court of Appeals of Santiago may exercise their functions in the jurisdictional territory of the Court of Appeals of San Miguel and vice versa, without need of rogatory letters to serve notices among those jurisdictions.

Term for the defendant to answer the lawsuit.

This term has been established as eighteen days if the defendant has been notified in the same jurisdictional territory of the court, regardless of whether it has been notified in the same administrative commune or in a different one. If the notification is made outside the jurisdictional territory of the court, the term to answer the lawsuit shall be increased according to the number of days determined by the Supreme Court by decree (tabla de emplazamiento).

Authorization of representation and power attorney.

It may be constituted by means of a simple or advanced electronic signature. In the first case, it must be ratified remotely by videoconference by the party and the attorney before the clerk of the court.

Inscriptions and records.

The registrations, sub-registrations or its cancellations ordered by judicial decision, may be requested from the corresponding public registry directly by the interested party, without the intervention of a judicial or process server. In such case, authorized copies of the resolutions and documents shall be obtained directly from the judicial processing system, with the corresponding seal of authenticity.

Injunctions, as well as seizures, are expressly exempted from this provision.

Appearance at pleadings and hearings before courts with civil jurisdiction, the Courts of Appeals and the Supreme Court.

The permanent reforms to the regime of appearance at such hearings and pleadings can be [consulted here](#).

The law also introduces transitory provisions to regulate that appearance, as well as the use of court facilities, which can be

[reviewed here.](#)

Executive Judgment.

The reforms regarding the collection proceeding for civil and commercial matters can be [reviewed here.](#)

The law also reforms the procedure before Local Courts, whose main modifications can be [reviewed here.](#)

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