

THE EFFECTIVENESS OF SUMMONS AFTER SEMA NUMBER 1 YEAR 2023 IN THE PERSPECTIVE OF LEGAL EFFECTIVENESS SOERJONO SOEKANTO

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Abstract

The process of summoning and notification at the Religious Court is a very important stage for the course of the trial. A valid summons is regulated in articles 122, 388, and 390 of the Criminal Code, namely summons must be made through the intermediary of the bailiff. However, with the new provisions regarding summons by registered mail, the call process is carried out through a postal courier intermediary. The regulation in question is SEMA Number 1 of 2023. The purpose of this study is to describe the procedures and analyze the effectiveness of summons and notifications through the intermediary of bailiffs and postal couriers. This article is classified as an empirical juridical research using a qualitative descriptive method. This article indicates the difference in the mechanism of calls and notices by bailiffs and postal couriers. With the use of a registered letter, the summons no longer depends on the officer who delivers it but on the Panel of Judges as the giver of the order. After the implementation of SEMA Number 1 of 2023, the delivery method through postal couriers is considered more effective than by bailiffs. This is in accordance with the principles of the judiciary which prioritizes a simple, fast, and low-cost process.

Keywords: Effectiveness; Summons; Religious Courts

Abstrak

Proses pemanggilan dan pemberitahuan di Pengadilan Agama merupakan tahapan yang sangat penting terhadap jalannya persidangan. Panggilan yang sah diatur di dalam pasal 122, 388, dan 390 HIR yaitu panggilan harus dilakukan lewat perantara jurusita. Namun dengan adanya ketentuan baru mengenai pemanggilan melalui surat tercatat maka proses panggilan dilakukan lewat perantara kurir pos. Aturan yang dimaksud yaitu SEMA Nomor 1 Tahun 2023. Tujuan dilakukannya penelitian ini guna mendeskripsikan tata cara dan menganalisis efektivitas pemanggilan dan pemberitahuan lewat perantara jurusita dan kurir pos. Artikel ini tergolong dalam penelitian yuridis empiris dengan memakai metode deskriptif kualitatif. Artikel ini mengindikasikan adanya perbedaan mekanisme panggilan dan pemberitahuan oleh jurusita dan kurir pos. Dengan penggunaan surat tercatat, pemanggilan tidak lagi bergantung pada petugas yang menyampaikan melainkan pada Majelis Hakim sebagai pemberi perintah. Setelah diterapkannya SEMA Nomor 1 Tahun 2023, metode penyampaian melalui kurir pos dinilai lebih efektif dibandingkan oleh

jurusita. Hal tersebut sesuai dengan asas peradilan yang mengutamakan proses yang sederhana, cepat, serta biaya ringan.

Kata Kunci: Efektivitas; Panggilan; Pengadilan Agama

Introduction

Religious Courts, in carrying out procedural law procedures, there are provisions that state that the Religious Court is a place to resolve several types of civil cases through trials for Indonesian citizens who are Muslims.¹ The parties involved in the dispute are required to follow the trial process in accordance with the applicable stages with guidance and decisions from the judge.² As law enforcers, judges have the duty to seek the truth and give a fair verdict.³ Therefore, the presence of the parties to the dispute is very necessary so that their statements can be heard in the trial.⁴ Before a decision is issued, the lawsuit must go through the trial stages that have been stipulated in the rules of the Religious Court. The initial stage of this process is the summoning of the disputing parties which must be carried out based on the applicable legal procedures. If the summons is not carried out as it should, this can hinder the trial.⁵ In order for the litigants to be present, the Religious Court sends a notification letter known as a summons letter or *relaas*. This letter contains information about the day, date, and time of the trial so that the parties can attend the trial according to the predetermined schedule.⁶

For the sake of a smooth trial in the Religious Court, *relaas* is an important component that must exist. *Relaas* refers to a valid summons and notice in legal proceedings addressed to parties who are litigating through the trial process at the Religious Court. *This relaas* aims to enable them to participate in and fulfill the orders given by the court or panel of judges.⁷ The term "official" refers to conformity with the applicable rules, while "proper" means having to pay attention to the deadline that has been set. In other words, *the report* must be sent to the litigant in accordance with the applicable rules within the stipulated time limit, which is at least 3 (three) days before the hearing takes place.⁸ The validity of *the relaas* depends on the

¹ Sulaikin Lubis, Wismar 'Ain Marzuki, and Gemala Dewi, *Hukum Acara Perdata Peradilan Agama Di Indonesia* (Jakarta: Kencana, 2018), 3.

² Adib Bahari, *Tata Cara Gugatan Cerai, Pembagian Harta Gono-Gini, Dan Hak Asuh Anak* (Yogyakarta: Pustaka Yustisia, 2016), 27.

³ Ismail Rumadan, "Peran Lembaga Peradilan Sebagai Institusi Penegak Hukum Dalam Menegakkan Keadilan Bagi Terwujudnya Perdamaian," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* Volume 6, no. 1 (2017): 74
<https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/download/128/131>

⁴ Mukti Arto, *Praktek Perkara Perdata Pada Peradilan Agama* (Yogyakarta: Pustaka Belajar, 1996), 51.

⁵ Abdul Manan, *Penerapan Hukum Acara Perdata Di Lingkungan Peradilan Agama* (Jakarta: Kencana, 2005), 30.

⁶ Heru Setiawan, "Perlindungan Hukum Terhadap Tergugat Atau pun Termohon Yang Tidak Menerima *Relaas* Pemberitahuan Secara Langsung," *Jurnal Ilmiah Dunia Hukum* Volume 4, no. 1 (2019): 22
<https://doi.org/10.35973/jidh.v4i1.1345>

⁷ Yahya Harahap, *Hukum Acara Perdata* (Jakarta: Sinar Grafika, 2019), 256.

⁸ Arief Nugroho and Ajeng Hanifa Zahra Caesar Aprilia, "Panggilan Sidang Secara Patut Dalam Hukum Acara Perdata," 2020, <https://www.djkn.kemenkeu.go.id/artikel/baca/12944/Panggilan-Sidang-Secara-Patut-Dalam-Hukum-Acara-Perdata.html>

fulfillment of certain conditions such as who is authorized to call, the method of the summons, and the deadline for the summons.⁹ The legal basis for the litigants who are summoned to attend the trial is the *relaas* that has been issued by the Religious Court. *Relaas* is included in the type of authentic deed according to the provisions of the civil procedure law. An authentic deed is defined as an official document whose form is in accordance with the law and made in the presence of an authorized official, this is in accordance with Article 165 of the HIR, Article 285 R.Bg, and Article 1865 of the BW.¹⁰ In addition, HIR, R.Bg, Rv, KHI, PMA, and Government Regulation Number 9 of 1975 are also included in the legal basis that regulates *the proceedings* of the trial.¹¹

In practice, in the Religious Court, there are employees who have a role in sending and informing the contents of the trial *proceedings* to the parties involved in the case, known as the Bailiff.¹² In carrying out his duties, the Bailiff must act with great caution because the delivery of the summons is part of the trial examination process which must be carried out according to the applicable provisions, namely officially and appropriately.¹³ The Supreme Court has the authority to appoint and dismiss bailiffs on the recommendation of the head of the relevant court.¹⁴ Article 39 of Law Number 7 of 1989 concerning Religious Courts stipulates the requirements to become a bailiff, including a minimum of 5 (five) years of experience as a substitute bailiff. Meanwhile, to become a Substitute Bailiff, a person must have at least 5 (five) years of work experience as a civil servant within the Religious Court.¹⁵

Mr. Munasik is one of the judges of the Kediri Regency Religious Court, he provided information during the pre-research carried out regarding the trial *proceedings*. He explained that *the relaas* must be sent directly by the bailiff to the person concerned at his place of residence. If the party concerned cannot be found, then the submission is made through the intermediary of the village head, then the village head is obliged to forward it to the relevant party. In order for *the relaas* to be considered valid, its submission must be based on the rules that have been stipulated in the applicable laws. However, when SEMA Number 1 of 2023 which regulates summonses for parties who do not have an electronic domicile is enforced in general,

⁹ Saifuddin, Jamaluddin, and Ramziati, "Analisa Yuridis Sosiologis Tentang Penerapan Asas Resmi Dan Patut Dalam Perkara Perceraian Ditinjau Dari Perspektif Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Perundang-Undangan," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* Volume 7, no. 1 (2019): 78–89, <https://doi.org/https://doi.org/10.29103/sjp.v7i1.1982>

¹⁰ Tri Irahwati, "Penerapan Administrasi Perkara Persidangan Secara Elektronik Terhadap Keabsahan Putusan Majelis Hakim," *Jurnal Pembaharu Hukum* Vol. 1 No. (2020): 138, <https://doi.org/10.24905/jph.v1i2.12>

¹¹ Sarwohadi, "Sekitar Kejurusitaan," n.d.

¹² Erik Rahman, Hasbuddin Khalid, and Anggreany Arief, "Pelaksanaan Tugas Jurusita Dalam Perkara Perdata," *Qawanin Jurnal Ilmu Hukum* Volume 3, no. 1 (2022): 3 <https://jurnal.fh.umi.ac.id/index.php/qawaninjih/article/download/391/138/>

¹³ Dwi Utami Hudaya Nur, "Peranan Jurusita Dalam Proses Pemanggilan Para Pihak Di Pengadilan Agama," *Al Ahya, Jurnal Pemikiran Pendidikan, Keagamaan Dan Transformasi Sosial* Volume 7, no. 1 (2021): 52 <http://jurnal.alahya.net/index.php/alahya/article/view/17>

¹⁴ Pasal 40 Ayat 1 Undang-Undang Nomor 3 Tahun 2006 Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama

¹⁵ Pasal 39 Ayat 1 dan 2 Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama

including in non-electronic cases, it actually conflicts with the provisions in Article 390 Paragraph (1) of the HIR, which explicitly states that a valid summons can only be made by the Bailiff. In this case, the postal courier—who is not part of the judicial institution, does not have the status of a court official, and is not sworn—clearly does not meet the element of legitimacy as stipulated in the civil procedure law. Thus, the application of the summons mechanism by postal couriers in conventional cases raises a crucial juridical problem because there is a clash between special regulations in the context of e-litigation and general provisions for formal summonses outside the electronic court system.

Since the promulgation of Supreme Court Regulation (PERMA) Number 7 of 2022 which is an amendment to PERMA Number 1 of 2019 concerning Case Administration and Trials in the Court Electronically, the process of submitting trial *reports* is carried out through a registered letter. So that the Supreme Court issued SEMA Number 1 of 2023 concerning Procedures for Summons and Notifications Through Registered Letters. The SEMA was issued with the aim of realizing compatibility with the rules contained in PERMA Number 7 of 2022 concerning Electronic Case and Court Administration. Currently, the process of summoning the disputing party at the Kediri Regency Religious Court is carried out through a postal courier in collaboration with a mail delivery provider, namely PT. Pos Indonesia.¹⁶ Hal ini dilakukan berdasarkan SEMA Nomor 1 Tahun 2023. Petugas pos berperan sebagai penghubung komunikasi bagi masyarakat baik domestik maupun luar negeri dengan menyediakan fasilitas pelayanan pengiriman barang dan jasa serta mempermudah distribusi surat.¹⁷ However, the position of a postal courier who carries out his duties in accordance with SEMA Number 1 of 2023 is very different from that of a bailiff. Postal couriers are not part of the court, are not civil servants, and have never been sworn in so they do not have the same authority in the process of summoning and notifying the parties to the case. This is contrary to the provisions of the law that govern summons and notice by the Bailiff. With the issuance of SEMA Number 1 of 2023 which explains the procedures for summons from electronic trials, there are different arrangements from ordinary trials related to the implementation of summonses.

This research has a clear originality compared to previous studies because although they both discuss the delivery of *relaas* in the Religious Court, the focus of the study and the approach used have fundamental differences. Dicki Iskandar's (2021) research highlights the implications of *online-based* *relaas* on the validity of decisions.¹⁸ The research of Fitriani Lundeto (2021) focuses on the delivery of *relaas*

¹⁶ Tim IT PA Kab. Kediri, "Sosialisasi PT POS Kediri Di Pengadilan Agama Kabupaten Kediri," 2023, <https://pa-kedirikab.go.id/pojok-link/1016-sosialisasi-pt-pos-kediri-di-pengadilan-agama-kabupaten-kediri>

¹⁷ Andika Danadipa Aji, Heru Nurasa, and Neneng Wati Isnawaty, "Kinerja Pegawai Pelayanan Pada PT. Pos Indonesia (Persero) Asia Afrika Bandung," *JANE (Jurnal Administrasi Negara)* 14, no. 2 (2023): 575 <https://jurnal.unpad.ac.id/jane/article/download/45094/19259>

¹⁸ Dicki Iskandar, "Relaas Berbasis Online Dan Implikasinya Terhadap Keabsahan Putusan (Studi Di Pengadilan Agama Brebes)," *Al-Hukkam: Jurnal of Islamic Family Law* Vol. 1 No. 1 (2021) <https://e-journal.uingusdur.ac.id/al-hukkam/article/view/254>

through the village.¹⁹ Meanwhile, although Nur Tulus Arlina Warti's (2022) research discusses *relaas* in the same location, she uses a normative approach and focuses on the juridical meaning of the summons appropriately, not on the practical effectiveness of *the delivery of relaas* as the main focus of this study.²⁰ Thus, this study occupies a unique position because it combines a direct empirical approach in the field with an evaluative focus on the effectiveness of the mechanism of *delivering relaas* through postal couriers, which has not been studied in depth in previous research.

Based on these problems, the researcher hopes that this article can provide an overview and insight for readers to find out the difference in the mechanism of sending *trial reports* sent by bailiffs and postal couriers. In addition to this, the writing of this article is also an effort by researchers to analyze the effectiveness of summoning litigants by bailiffs and postal couriers.

Research Methods

This research is classified as a type of empirical juridical research, which aims to see and analyze the legal provisions that apply in the community's living environment. In addition, this study uses a qualitative descriptive approach with primary data and secondary data obtained from interviews and documentation, then after obtaining the data, it is then presented in the form of a narrative study.

Procedures for Submitting *Trial Reports* at the Kediri Regency Religious Court based on SEMA Number 1 of 2023

The Kediri Regency Religious Court is an institution that runs judicial authority in Indonesia. Being a judicial institution, this court must be able to position itself in accordance with its main function. To realize this, improving the quality of service is a must so that the duties and authorities they have can be carried out optimally. One of the main tasks of the Kediri Regency Religious Court is to carry out summons to the parties involved in the case before the trial begins.²¹ This summons aims to make the parties aware of the time and place of their trial. Therefore, a summons letter called *relaas* was prepared. Basically, the process of summoning the parties to the dispute is the duty and authority of a court employee called a bailiff. However, after that, Supreme Court Regulation Number 7 of 2022 was issued to provide further and latest explanations or replace Supreme Court Regulation Number 1 of 2019 in which it discusses the administrative litigation process and the electronic trial process in court.²²

¹⁹ Fitriani Lundeto, "Efektivitas Relaa Panggilan Dalam Penyelesaian Perkara Perceraian Di Pengadilan Agama Bitung," *Itisham: Journal of Islamic Law and Economics* Vol. 1 No. 2 (2021), <https://journal.iain-manado.ac.id/index.php/itisham/article/view/1696>

²⁰ Nur Tulus Arlina Wati, "Analisis Yuridis Memaknai Panggilan Secara Patut Terhadap Putusan Verstek Dalam Perkara Cerai Gugat" (Institut Agama Islam Negeri (IAIN) Kediri, 2022), <http://etheses.iainkediri.ac.id/id/eprint/6210>

²¹ Malik Ibrahim, "Reformasi Birokrasi Pada Lingkungan Peradilan Agama Di Indonesia," *Al-Ahwal: Jurnal Hukum Keluarga Islam* Vol. 11 No. (2018): 135, <https://doi.org/https://doi.org/10.14421/ahwal.2018.11203>

²² Nasihin, "Ikhtisar Perubahan Sistem Persidangan Elektronik Dari PERMA No 1 Tahun 2019 Ke PERMA No 7 Tahun 2022," PA Tanjung Balai Karimun, 2023, <https://www.pta-pekanbaru.go.id/17563/ikhtisar->

Notice and summons by registered mail are a way to send information to the litigant according to the intended address. This stage uses a mail delivery service, namely PT. Pos Indonesia which has been determined by the Supreme Court. The Kediri Regency Religious Court is a judicial institution that has implemented SEMA Number 1 of 2023. SEMA Number 1 of 2023 was issued on July 5, 2023 to standardize the procedures for summons and notification by registered letter for parties who do not have an electronic domicile in the judicial process. This SEMA aims to ensure legal certainty and efficiency in the submission of official court documents. Here are the main points of SEMA Number 1 of 2023:

1. **Delivery By Registered Mail:** Summonses and notices are served by registered mail sent by the court using the services of a registered mail delivery service provider determined by the Supreme Court.
2. **Proof of Receipt:** Each submission must be evidenced by a receipt from the recipient stating the date of receipt.
3. **Direct Delivery:** Summons and/or notices must be delivered directly (*on hand delivery*) to the parties. If this is not possible, it can be conveyed to adults who live in the same household as the relevant parties.
4. **Refusal of Acceptance:** If the party in question refuses to accept or sign a receipt, the delivery officer electronically records the rejection and the letter is returned to the court (return).
5. **Residence with Limited Access:** For residence with limited access such as apartments or flats, if direct delivery is not possible, a letter may be delivered to the receptionist or security officer.
6. **Submission to Third Parties:** Submission to a person living in the same house or security officer can only be done if the recipient is not an opponent in the case and is willing to be photographed with his or her identity card.
7. **Alternative Through the Village Head or Village Head:** If the third party is not willing to be photographed or show identity, the submission is done through the local village head or village head.
8. **Uninhabited House:** If the house of the related party is uninhabited, a photo of the house must be included, and after two deliveries, the letter is submitted through the village head or village head.
9. **Address Not Found:** If the address is not found or the party does not live at the address, the call is made through the common calling mechanism.
10. **Information from the Village Head or Village Head:** Circumstances such as the address is not found or the deceased party can only be stated with information from the local village head or village head.
11. **Submission Deadline:** Summons must be sent no later than 6 calendar days before the hearing and received no later than 3 working days before the hearing, unless otherwise specified in laws and regulations.

[perubahan-sistem-persidangan-elektronik-dari-perma-no-1-tahun-2019-ke-perma-no-7-tahun-2022.html](https://doi.org/10.24127/usroh.v9i1.20250601)

12. Information in Submission: Submission of calls must contain information such as received directly by the receiving party, rejection of acceptance, or received by a third party in accordance with the terms.
13. Proof of Receipt: Submission by registered mail must be accompanied by proof or information of receipt that can be accounted for.

This new provision stipulates that the procedure for submission and summons by registered mail is intended for parties who do not have an electronic domicile. This is in accordance with what was conveyed by Drs. H. Toif, M.H., as one of the judges of the Kediri Regency Religious Court. He explained that the issuance of SEMA Number 1 of 2023 aims to provide an alternative to parties who do not have an electronic domicile during the litigation process at the Religious Court. The purpose of electronic domicile is an email address for the purpose of the trial that is not owned by the litigant. The Kediri Regency Religious Court uses a digital platform, namely *e-court*, which aims to provide facilities for case registration, payment of initial fees, summoning related parties, and holding online trials. Before the enactment of SEMA Number 1 of 2023, the summoning of the parties involved was carried out directly by the bailiff who had the authority. The procedure for submitting *the hearing report* through the bailiff, before SEMA Number 1 of 2023 is enforced, consists of several stages, namely:

1. *The trial record* was handed over directly to the disputing party at his place of residence by the bailiff.
2. *The trial is* given directly to the legal representative if the disputing party is represented by a legal representative.
3. *The trial report* is given to the village head, who is then responsible for immediately notifying and handing it over to the relevant party if the bailiff is unable to deal directly with the disputing party.²³

The Kediri Regency Religious Court is revitalizing the summons and notification procedures which now use registered letters after the issuance of SEMA Number 1 of 2023. The change is applied to parties who file cases on *the e-court* application electronically. Previously, the submission of *trial records* and notices was carried out directly through the Bailiff's intermediary, but now if the defendant does not have an electronic address such as *an e-court* account, then the process will be carried out by a postal courier. However, the bailiff still has the duty to supervise the implementation of summonses and notifications through recorded letters made by postal couriers who only act as intermediaries in the delivery of *relaas*. The bailiff is responsible for the preparation of the trial proceedings and provides instructions for the postal courier in delivering summonses and notices to the litigant in accordance with the domicile of his residence or residence. The main difference from the previous system is that the bailiff does not now go directly to the area to send *the trial report*. Thus, there is a

²³ Asep Nursobah, "Inilah Ketentuan Panggilan Melalui Surat Tercatat Yang Disebut Ketua MA Sebagai Bentuk Terobosan Dan Pembaruan Hukum Acara," Kepaniteraan Mahkamah Agung, 2023, <https://kepaniteraan.mahkamahagung.go.id/registry-news/2219-inilah-ketentuan-panggilan-melalui-surat-tercatat-yang-disebut-ketua-ma-sebagai-bentuk-terobosan-dan-pembaruan-hukum-acara>

difference in the procedure for sending *trial records* that are carried out in the registered mail system compared to direct summons by bailiffs. Information about this new procedure was obtained from Iqlima who is a post employee of the Kediri Regency Religious Court and strengthened by Toif as a Judge of the Kediri Regency Religious Court.

Based on the results of the interviews conducted by the researcher with the two sources regarding the procedure for sending *trial reports* until they are accepted by the disputing parties, thus we can understand that the procedure for submitting *trial records* using recorded letters carried out by postal couriers is divided into several stages as follows:

1. Packaging

To ensure the smooth notification of the hearing, the Religious Court implements a structured *relaas* packaging system. Each document is packaged in a formal envelope that lists the court's logo and address as legal identification, and is equipped with a zip code, trial schedule, and delivery deadline to ensure timely delivery. The delivery process is carried out by the postal courier with the provision that *the relaas* must be sent to the litigant before the hearing no later than 6 (six) days. In addition, the postal courier must also ensure that the recipient receives a *reassurance* at least 3 (three) days before the hearing so that the party concerned can prepare for his presence in the trial process. To avoid distribution errors, the recipient's name and address are clearly printed on the front of the envelope.

2. *Pick up* and Drop Off

The Religious Court, which has a bailiff, ensures the smooth delivery of *relaas* by contacting the post office less than one day before the pick-up process to confirm the pick-up schedule and location. The postal courier will pick up the shipment once a day on Monday to Friday during business hours. After that, the postal officer at the Religious Court and the courier responsible for the implementation of *the delivery of the relaas* signed the list of shipments that had been checked and given by the bailiff. The list is made in two copies, one of which is made into an archive by the court and the other is given to the post office as administrative evidence.

3. *Delivery*

The trial report is sent to the recipient's name listed on the envelope directly. If the recipient cannot be found, *the relaas* can be given to an adult living in the same house on the condition of showing an identity card. If the address listed is not found, *the relaas* is submitted to the village head with proof of receipt that includes the identity of the recipient and the official stamp of the village or village. If the village head states that the recipient is not registered as a citizen, then there must be proof of receipt added based on the information.

4. *Returns* (Returns)

Relaas will be returned to the Religious Court if the postal courier does not succeed in sending it. *The relaas* will be returned with a maximum time limit of 1

(one) day thereafter. Postal couriers are required to include a stamp containing the reason for the return based on information obtained from the village office or village head. Some of the causes of *relaas* returns include:

1. The recipient's residence location is not identified
2. The address listed is no longer lived by the recipient
3. Recipient unknown
4. The recipient has died and the heirs are unknown
5. The recipient rejects the *trial report*

Based on the mechanism that has been classified by the previous researcher, Toif as the judge added that if *the relaas* is returned (*return*), then the supernatural summons can be made via radio. In addition, according to Iqlima's explanation, the postal courier in charge of delivering *the trial* is a special employee who is selected based on excellent quality of work and has a high level of integrity. The postal courier who submits *the trial relaas* has been given a letter of assignment or a certified couris so that the process of delivering *relaas* can be guaranteed to be carried out properly. In addition to the importance of *the trial* proceedings whose delivery is carried out in accordance with the provisions, *the trial proceedings* must also be considered in order to be valid in the eyes of the law. In the Religious Court, the practice of summoning the parties involved in the case must meet official and proper principles. The official concept and should be adjusted to the rules of Articles 122, 388, and 390 of the HIR.²⁴ Some of the criteria for the validity of the summons include:

1. Article 388

The bailiff or substitute bailiff is an official who has the authority to make a summons so that the process is considered official. However, the authority of the Bailiff is limited to the jurisdiction of each court so they cannot summon outside their jurisdiction.

2. Article 390

Further regulations related to official summons are also stipulated in Article 390 paragraphs 1, 2, and 3 of the HIR. In paragraph 1 it states that the summons must be made directly to the party concerned at his place of residence or domicile. A summons can be delivered to the village head if the party is not found in the place.

Paragraph 2 explains that if the litigant has died, the summons is addressed to the heirs concerned. If the heirs are absent or not found, a summons may be given to the village head.

Paragraph 3 states that the summons is made through the Regent and announced through the court media if the litigant is not found or the address is unknown.

²⁴ Delfin Pomalingo, "Tata Cara Pemanggilan Para Pihak Yang Berperkara Penggugat/ Tergugat Yang Terlibat Dalam Perkara Perdata Di Pengadilan Negeri (Penerapan Pasal 388 j.o. Pasal 390 HIR)," *Lex Privatum: Jurnal Elektronik Bagian Hukum Keperdataan Fakultas Hukum Unsrat* Vol. 5 No. (2017): 72–78, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/18210>

3. Article 122

The maximum time limit is 3 (three) days between the receipt of the summons and the hearing schedule so that the summons and notices are considered appropriate.

After SEMA Number 1 of 2023 regarding the procedure for summons using registered letters was determined, a new procedure emerged that clarified the official summons procedure in the judicial process. The results of the interview showed that Toif as a judge stated that the Supreme Court issued this regulation to optimize the legal summons mechanism. The regulation provides an explanation that the summons is an order from the Panel of Judges that is given to the bailiff, then the bailiff forwards it to the postal employee to carry out the delivery. Once the summons is made, the postal employee must report the results to the bailiff, who then forwards the report to the Panel of Judges. With this new provision, summons by registered letter no longer focuses only on the executing of duties, namely the bailiff, but also on the giver of the order, namely the Panel of Judges. The sending of summonses to the litigants is now carried out by the postal courier, who acts as the appointed party of the mail delivery service that has been determined by the Supreme Court.

Another change after the enactment of SEMA Number 1 of 2023 is related to the validity of the summons, namely if the party concerned cannot be found directly at his or her residential address, the summons can be given to an adult who lives in the same household on the condition that they attach a photo with their identity card and are not part of the opposing party. If the litigant or the adult living in the same house is not found, a summons is given to the local village head. The return of the trial by the postal courier if the courier is unable to meet the party concerned or the adult living together directly.

The Panel of Judges considers *the relaas* returned by the postal courier valid, except in cases where the address listed in the *relaas* is not found. If there is a location error or *error in area*, then the *relaas* is declared invalid because it does not reach the party concerned. In a situation like this, there are 3 (three) possible decisions that can be taken by the Panel of Judges. First, the plaintiff can withdraw his case if the summons process cannot be continued. Second, summons can be made superficially if the defendant's whereabouts are not known after the official summons attempt is made. Third, the case can be declared unacceptable if the valid summons is not fulfilled in accordance with the applicable legal provisions. Thus, the postal courier's understanding of the suspense procedure is an important factor in ensuring the smooth summons process and the validity of *the relaas* in the trial. In addition, there was no change regarding the propriety of the summons. SEMA Number 1 of 2023 still stipulates the time lag between the receipt of *the report* and the implementation of the hearing, which is a maximum of 3 (three) days. Meanwhile, the sending of the summons must be made no later than 6 (six) days before the implementation of the trial takes place.

Analysis of the Effectiveness of *Trial Relations* using Soerjono Soekanto's Legal Effectiveness Theory

The success of the implementation of a law in society can be influenced by 5 (five) legal factors. These factors include legal factors themselves, law enforcement factors, facilities or facilities factors, community factors, and cultural factors. This factor is as expressed by Soerjono Soekanto in Legal Effectiveness Theory. This study analyzes the process of summoning and notification made through the bailiff intermediary and postal courier by referring to the five legal factors.

1. Legal Factors Themselves

Legal factors include a wide range of applicable regulations including Laws and other regulations that serve as the basis for the application of the law.²⁵ In this study, legal factors refer to the legal provisions used as guidelines in the process of submitting summons at the Kediri Regency Religious Court, both submitted by bailiffs and postal couriers.

The basis for the submission of *trial reports* by the bailiff is found in Articles 122, 388, and 390 of the Criminal Code which regulate the procedures and authority of the bailiff in carrying out his duties. Meanwhile, the delivery of *relaas* through postal couriers is guided by SEMA Number 1 of 2023, the regulation regulates the mechanism of summons and notifications using registered letters. The rule was made to adjust the provisions in PERMA Number 7 of 2022 related to electronic dispute administration. Before SEMA Number 1 of 2023 concerning Procedures for Summons and Notifications by Registered Mail was issued by the Supreme Court on May 22, 2023, the Supreme Court had collaborated with PT. Pos Indonesia is based on the rules of PKS numbers 02/HM.00/PKS/V/2023 and PKS 106/DIR-5/0523 which regulate the delivery of registered letter documents. Therefore, these two methods of *delivering relationships* have a valid legal basis and can be used in judicial processes.

2. Law Enforcement Factors

Judges, Bailiffs, and Postal Employees are law enforcers, which are part of the parties involved in the application of a law.²⁶ Before the issuance of SEMA Number 1 of 2023, the task of submitting a summons for the trial was entirely in the hands of the bailiff. However, after this regulation was enacted, there was a change in the mechanism involving several parties:

- a. Judges have a major role in directing the summons mechanism.
- b. The bailiff serves as an intermediary between the Panel of Judges and the postal employee, conveying and reporting the results of *the delivery of relaas*.
- c. Postal employees who have received official duties are responsible for delivering *the relaas* to the litigants.

²⁵ Soerjono Soekanto, *Factors Affecting Law Enforcement* (Jakarta: PT. Raja Grafindo Persada, 2022), 11.

²⁶ Soekanto, 19.

Based on the analysis of the research, the law enforcement factor has been met because there are parties who implement the rules according to applicable regulations.

1. Facilities or Facilities Factor

The effectiveness of the law also depends on the availability of facilities and facilities that support its implementation.²⁷ Based on interviews with related parties, the summons letter submitted from the Kediri Regency Religious Court has adequate facilities. Litigants have the opportunity to choose whether their cases are registered manually or electronically through *the e-court* application. Cases that are registered manually still use bailiffs for the submission of *relaas*, while electronic cases send letters through postal couriers for parties who do not have an electronic domicile.

2. Community Factors

Public awareness of the law is also an important factor in the effectiveness of its implementation. The level of public compliance with SEMA Number 1 of 2023 is influenced by their understanding of the regulation. Factors that affect the legal awareness of the community include understanding of the content of regulations, public attitudes towards the implementation of the law, and attitudes that are in harmony with the applicable rules.²⁸

The results of the study show that the people who dispute at the Kediri Regency Religious Court already understand the mechanism of summons both through bailiffs and postal couriers. This legal awareness plays a role in the smooth process of delivering trial *reports*.

3. Cultural Factors

Legal culture in society affects the effectiveness of the implementation of regulations. Before the enactment of SEMA Number 1 of 2023, the public's habit of receiving *court records* depended on the role of the bailiff. After this regulation was implemented, the pattern of *submission of relaas* changed with the involvement of postal couriers for litigants who registered cases without having an electronic domicile. This change does not eliminate the existing legal culture, but rather adjusts to technological developments and the efficiency of judicial services. Support from the public and the judiciary also contributes to forming a more effective and efficient legal culture so that the mechanism of summonses and notifications can be carried out as per applicable provisions.

Based on the five factors above, this study can be concluded that the legal effectiveness of the submission of summonses at the Kediri Regency Religious Court has been fulfilled both through bailiffs and postal couriers with each mechanism having advantages and disadvantages in its implementation.

²⁷ Soekanto, 37.

²⁸ Soerjono Soekanto, *Kegunaan Sosiologi Hukum Bagi Kalangan Hukum* (Bandung: PT. Citra Aditya Bahkti, 1989). 79.

Conclusion

The implementation of SEMA Number 1 of 2023 changes the mechanism for submitting electronic summonses at the Kediri Regency Religious Court to be more effective through the use of registered letters by postal couriers, compared to deliveries carried out by bailiffs. This new method not only adheres to the principles of simple, fast, and low-cost justice, but also allows the Panel of Judges to play a more active role in the subpoena process. Summonses made through registered letters no longer rest on the executor of the summons but rest on the giver of the order, namely the Panel of Judges. The effectiveness of the delivery of *this report* is influenced by five main factors identified in Soerjono Soekanto's Legal Effectiveness Theory, including the legal aspects themselves, law enforcement, facilities or facilities, society, and legal culture so as to show that the two delivery methods have advantages and disadvantages of each in their implementation.

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