How to Serve the Opposing Party in Your Family Law Case

Why do I have to serve the other party?

When you file a family law case, you must make sure that a copy of the petition, summons, and other papers you are filing are delivered to the person you are filing the case against ("the other party") in a legally correct way. This is called having the other party "served." The other party has a legal right to receive a copy of the papers you file. The court will not make any rulings on your case until you can provide proof that the other party was given copies of your court papers.

There are three different ways you can have the papers served: personal service; service by mail; or service by publication. **In Washington, you must always try to have the other party personally served with the paperwork.** If – and only if -- you absolutely can't get the other party personally served, you can ask the court for permission to serve him or her by either mail or publication.

The following is information about the three types of service:

1. <u>Personal service</u>:

For personal service, someone (age 18 or older) besides you must hand-deliver the papers to the other party, or to someone of suitable age living at the other party's home**. The person who delivers the papers is called your "server."** You can get a friend to do this for free, or you can pay a server to do this for you. You don't need court permission to do personal service. Personal service is usually the cheapest way to get the other party served.

> ◈ Have the other party personally served in all cases where possible.

You should keep track of everything you do to try and get the other party personally served, in case you are unsuccessful and need to ask for the court's permission to serve by mail or publication.

2. Service by mail:

You need court permission before you can try to serve by mail. You should find someone else to mail the paperwork for you. They will need to mail two copies of the papers to the other party: one by regular mail, and another by certified mail, return receipt requested.

3. <u>Service by publication</u>:

You need court permission before you can try to serve by publication. This is the most expensive method of serving, and may be the least likely to reach the other party. You should request permission to serve the other party by publication only as a last resort, if you can't get a court order allowing you to serve by mail.

If a court later decides that the service by mail or publication was improper (example: because the court doesn't believe you tried hard enough to locate the other party), all your court orders can be cancelled, even years in the future.

What can I do to try to find the other party for personal service?

You must make an honest and reasonable search to try to locate the other party for

personal service. **Follow up on any information you get that may help you locate the other party for personal service.**

- Try calling possible phone numbers for the other party.
- Ask the Postal Service for a forwarding address from the last known address you have. Information about the post office procedure is at: http://www.usps.com/cpim/ftp/hand/as353/353c5_002.html#vnameref_1
- Look in the white pages of the phone book for all cities where s/he might live.
- Call every friend, roommate, or family member of the opposing party that you know about to ask about an address.
- If the other party pays child support through DCS, and part of your petition includes a request to change child support, or your parenting plan/custody order, do a DCS address release request. The DCS Child Support Resource Center webpage, at http://www1.dshs.wa.gov/dcs/disclosure2.shtml has instructions, or see our packet *Filing a Petition to Modify Your Child Support Court Order*. Note: it may take 30 days or more to get the other party's address this way.
- Check sources on the internet for locating people's addresses. Example: Google.com.
- Check with present or former employers or unions or co-workers to try to get a residence address or a place of work.

Once I find the other party, how do I personally serve them?

You can find detailed instructions and a Return of Service form for your type of family law case at www.washingtonlawhelp.org under the Family Law topic area. Look for the do-it-yourself packet for your type of case. There is also a Return of Service form attached to this publication. Your server will need to complete this form and you will need to file it with the court as proof of service. Remember to keep a copy for your records.

What if I try all of these methods, but still can't locate the other party for personal service?

If you tried your best and still can't get the other party personally served, you can request the court's permission to serve the other party or parties by mail or publication. You may use our self-help packet *Service by Certified Mail or Publication* to assist you available at www.washingtonlawhelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, May 2010.

© 2010 Northwest Justice Project — 1-888-201-1014
(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)

Superior Court of Washington
County of

In re: Petitioner, and Respondent.	**No**. **Return of Service** **(Optional Use)** **(RTS)**

I Declare:

1. I am over the age of 18 years, and I am not a party to this action.

2. I served the following documents to (name) _____:

[ ] summons, a copy of which is attached
[ ] petition in this action
[ ] proposed parenting plan or residential schedule
[ ] proposed child support order
[ ] proposed child support worksheets
[ ] sealed financial source documents cover sheet and financial documents
[ ] financial declaration
[ ] Notice Re: Dependent of a Person in Military Service
[ ] notice of hearing for _____
[ ] motion for temporary order
[ ] motion for and ex parte order
[ ] motion for and order to show cause re: _____
[ ] declarations of _____
[ ] temporary order
[ ] other:

3. The date, time and place of service were (if by mail refer to Paragraph 4 below):

Date: _____Time: _____ a.m./p.m.

Address: _____

_____

4. Service was made:

[ ] by delivery to the person named in paragraph 2 above.
[ ] by delivery to (name) _____, a person of suitable age and discretion residing at the respondent's usual abode.
[ ] by publication as provided in RCW 4.28.100. (File Affidavit of Publication separately.)
[ ] (check this box only if there is a court order authorizing service by mail) by mailing two copies postage prepaid to the person named in the order entered by the court on (date) _____. One copy was mailed by ordinary first class mail, the other copy was sent by certified mail return receipt requested. (Tape return receipt below.) The copies were mailed on (date) _____.
[ ] (check this box only if there is a statute authorizing service by mail) by mailing a copy postage prepaid to the person requiring service by any form of mail requiring return receipt. (Tape return receipt below.) The copy was mailed on (date) _____.

5. Service of Notice on Dependent of a Person in Military Service.

[ ] The Notice to Dependent of Person in Military Service was [ ] served on [ ] mailed by first class mail on (date) _____.
[ ] Other:

6. Other:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

_____ _____
Signature Print or Type Name

Fees:
Service _____
Mileage _____
Total _____

(Tape Return Receipt here, if service was by mail.)

File the original Return of Service with the clerk. Provide a copy to the law enforcement agency where protected person resides if the documents served include a restraining order signed by the court.