

SERVICE OF COURT PAPERS

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YOU CANNOT FIND THE OTHER PARTY

SELF-SERVICE CENTER

SERVICE OF COURT PAPERS

YOU CANNOT FIND THE OTHER PARTY

This packet contains general information and/or court forms and instructions about service of court papers on the other party when you cannot find the other party. Be sure the documents are in the following order:

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SELF SERVICE CENTER

SERVICE OF COURT PAPERS YOU DO NOT KNOW WHERE THE OTHER PARTY IS AND YOU CANNOT FIND OUT

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You have filed a Petition or Complaint, or other court papers that are required to be served for a matter in court, and now you want to have the other party served with the court papers, **AND**
- ✓ You do not know where the other party is, **AND**
- ✓ You have already taken **every reasonable step** to locate and personally serve the other party.
Examples of steps you **MUST** take before you can Serve by Publication:
 - Verify the Respondent is not at any last known address (es).
 - Talk to Respondent's friends, family members, employer, co-workers former co-workers or employer(s), or anyone else you think may have a current address.
 - Search telephone directories, the Internet, voter registration records, obituaries, and even the morgue.
 - You may also have to consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the other party, **AND**
- ✓ You are prepared to state to the Court under penalty of law, exactly what you did to try to find the other party.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. The Self-Service Center has a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers or on the Internet at:

www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/LawyersAndMediators/

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HELPFUL INFORMATION ON SERVING THE OTHER PARTY

SERVING THE OTHER PARTY:

- After you have filed your court papers with the Clerk of the Court, you must **serve** the papers on the other party.
- **Service** means giving legal notice to the other party (or parties) that you have filed court papers. You must provide proof of service to the court.
- This packet explains the steps you need to take to serve the other party and what forms you must use.
- By completing the steps for service, you tell the court that the other party has received a copy of the court papers. After the other party is served, the other party will be given a time limit to file a Response or Answer. The Response or Answer is the other party's written statement to your request. The Response or Answer tells you, and the court, what the other party wants.

METHODS OF SERVICE:

Read the choices below to make sure that you are using the correct service packet. Each packet contains instructions and the forms you may need. Select the method of service that works best for you.

1. You Know Where the Other Party Lives in the State of Arizona:

- A. Service by Acceptance.** This method requires you to give, or mail, the court papers to the other party and include an **"Acceptance of Service"** form. The other party must sign the **"Acceptance of Service"** form in front of a Notary Public and return it to you. The other party cannot sign the **"Acceptance of Service"** until after you have filed the court papers with the court. The other party's signature on the **"Acceptance of Service"** does **not** mean that he/she agrees with the court papers. It means that the other party admits receiving the papers, without being served in person by the sheriff or a process server.

Do **not** give the original **"Summons"** to the other party. You must return the original **"Summons"** to the Clerk at the filing counter. Service is complete at the time the other party signs the **"Acceptance of Service."** If you choose this method of service, use the **"Acceptance of Service"** forms.

WARNING: Do **not** use this method of service if you are the victim of domestic violence, or believe the other party will hurt you, take your money, or take your children. If you believe the other party will become violent or uncooperative when you ask him/her to accept service, use one of the methods of service described below.

B. Service by Registered Process Server. This method requires you to hire, and pay, a registered process server to serve the other party with court papers. A process server is a person who will give the papers to the other party at home, work, or other location. This method of service costs more than service by acceptance and requires the process server to find the other party. If you decide to use this method, look under "**PROCESS SERVER**" in the Yellow Pages to find someone who can serve your papers. Service is complete at the time the process server hands the other party the court papers. If you choose this method of service, use the "**Service by Process Server**" form.

C. Service by Sheriff. This method requires you to contact the Sheriff's Office in the county where the other party lives to arrange for a Sheriff's deputy to give the other party the court papers. This method requires you to pay a fee to the Sheriff's Office, unless you receive a fee waiver or deferral. The fee waiver or deferral form that Arizona uses is available at the Self-Service Center and is only for persons who cannot afford the cost of service and meet certain financial requirements. The fee waiver and deferral form requires you to explain to the Sheriff why your situation requires you to use this method of service.

Service is complete at the time the sheriff or deputy hands the other party the court papers. If you choose this method of service, use the "**Service by Sheriff**" form.

D. Service of Family Court Papers. For information specific to serving Family Court papers, see "How to Serve Family Court Papers by Mail or Other Delivery Service with Signature Confirmation" contained in this packet.

E. Other Methods of Service. There may be other ways to serve the other party. To learn more about these other ways, you should see a lawyer for help.

2. You Know Where the Other Party Lives in the United States but he/she does not live in the State of Arizona. (If the other party lives outside of the United States, you should see a lawyer to find out which method of service will work best for you.)

A. Service by Acceptance. This method requires you to give or mail the court papers to the other party and include an "**Acceptance of Service**" form. The other party must sign the "**Acceptance of Service**" form in front of a Notary Public and return it to you. The other party cannot sign the "**Acceptance of Service**" until after you have filed the court papers with the court. The other party's signature on the "**Acceptance of Service**" does **not** mean that he/she agrees with the court papers. It means that the other party admits receiving the papers, without being served in person by the sheriff or a process server.

Do not give the original "Summons" to the other party. You must return the original "**Summons**" to the Clerk at the filing counter. Service is complete at the time the other party signs the "**Acceptance of Service.**" If you choose this method of service, use the "**Acceptance of Service**" forms. **WARNING: Do not** use this method of service if you are the victim of domestic violence, or believe the other party will hurt you, take your money, or take your children. If you believe the other party will become violent or

uncooperative when you ask him/her to accept service, use one of the methods of service described below.

- B. Service by Registered Mail.** Use this method of service **only** if the other party lives outside the State of Arizona and you know the address, **or** you are serving papers for a *Family Court* case (If so, see “How to Serve Family Court Papers by Mail or Other Delivery Service with Signature Confirmation” contained in this packet). This method of service allows you to give notice by a special type of mail. You can send the court papers by giving the post office copies of the court papers in an envelope, postage prepaid, to be sent to the other party by any form of mail requiring a signed and returned receipt. This is often called Certified Mail, Restricted Delivery by the post office. This means that the other party must sign for the papers.

If the other party signs a receipt (green card) for the papers, the green card will be returned to you in the mail. You must then file an affidavit with the court stating (1) that the person being served is known to be located outside the State of Arizona, (2) that the court papers were sent to the other party, (3) that the papers were received by the other party, as evidenced by the green card, a copy of which you attach to the affidavit; and (4) the date the party received the documents. A copy of the affidavit you will need is provided in the packet.

- C. Service by Registered Process Server.** This method requires you to hire, and pay, a registered process server to serve the other party with court papers. A process server is a person who will give the papers to the other party at home, work, or other location. This method of service costs more than service by acceptance and requires the process server to find the other party. If you decide to use this method, look under "**PROCESS SERVER**" in the Yellow Pages to find someone who can serve your papers. Service is complete at the time the process server hands the other party the court papers. If you choose this method of service, use the "**Service by Process Server**" form.

- D. Service by Sheriff.** This method requires you to contact the Sheriff's Office in the county where the other party lives to arrange for a Sheriff's deputy to give the other party the court papers. This method requires you to pay a fee to the Sheriff's Office, unless you receive a fee waiver or deferral. The fee waiver or deferral form that Arizona uses, is available at the Self-Service Center and is only for persons who cannot afford the cost of service and meet certain financial requirements. The fee waiver and deferral form requires you to explain to the Sheriff why your situation requires you to use this method of service.

Service is complete at the time the sheriff or deputy hands the other party the court papers. If you choose this method of service, use the "**Service by Sheriff**" form.

- E. Other Methods of Service.** There may be other ways to serve the other party. To learn more about these other ways, you should see a lawyer for help.

3. You Cannot Find the Other Party.

- A. Service by Publication.** You may use this method **only if you do not know where the other party lives, or cannot find the other party.** Service by publication is your "last

resort." It is used **only** if you do not have a current address for the other party and have tried, unsuccessfully, to find the other party. Service by Publication can be expensive and may delay your court case.

WARNING: YOU GENERALLY WILL NOT BE ABLE TO ESTABLISH OR CHANGE CHILD SUPPORT OR SPOUSAL MAINTENANCE (alimony) WITH SERVICE BY PUBLICATION!

This method requires that information from the "**Summons**" be published in a newspaper in Maricopa County once a week for four weeks in a row if the other party's last known address was in Maricopa County or the other party's last known address was **not** in Arizona. If the other party's last known address was in Arizona, but **not** in Maricopa County, a copy of the summons must be published in a newspaper in Maricopa County, and the county in which the other party's last known address is. To use this method, you must fill out several forms including the "**Affidavit Supporting Publication**" explaining to the court what you have done to try to find the other party. Service is complete thirty **(30)** days after the date of the first publication.

TIPS FOR FINDING THE OTHER PARTY:

- A. **Before the Court will accept Service by Publication, you must have made every reasonable effort to find the other party (or parties) and to give actual notice of this case by personal service of the required documents.** You will be required to state, under penalty of perjury, the steps you have taken to try to locate the other parties and if the Court is not satisfied that you have taken all reasonable steps, your case may be delayed until the Court is satisfied all such steps have been taken. Examples of steps you **MUST** take: verify the Respondent is not at any last known address(es), talk to Respondent's friends, family members, employer, co-workers former co-workers or employer(s), or anyone else you think may have a current address. Search telephone directories, the Internet, voter registration records, obituaries, and even the morgue. You may also have to consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the other party. If you know the other party's date of birth and/or Social Security Number, this method may work for you.
- B. The Court requires you to file an "**Affidavit Supporting Publication**" a statement affirming or swearing under oath that you have done everything possible to try to find the other party.

WHEN IS A WRITTEN RESPONSE TO THE COURT PAPERS DUE?

- **LOOK AT THE TIMETABLE BELOW.** If the **last day** for the other party to respond falls on a Saturday, Sunday, or legal holiday, you **do not** count that day. The last day you count to determine if you can file the default papers, must be a day when this court is open for business.
- **INCLUDE WEEKENDS AND HOLIDAYS.** In counting the days, include weekends and holidays until you reach the number of days in the Timetable below. If the other party files a written response with the court, you **CANNOT GO BY DEFAULT.**

DEFAULT TIMETABLE

SERVICE BY	COUNT	EVENT
"Acceptance of Service" (in Arizona)	20 days	after other party signs "Acceptance of Service"
Process Server (in Arizona)	20 days	after other party receives papers from process server
Sheriff (in Arizona)	20 days	after other party receives papers from sheriff
"Acceptance of Service" (out of State)	30 days	after other party signs "Acceptance of Service"
Registered mail (out of State)	30 days	after other party signs green card
Process Server (out of State)	30 days	after other party receives papers from process server
Sheriff (out of State)	30 days	after other party receives papers from sheriff
Publication	60 days	after the 1st day of publication

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PROCEDURE: HOW TO SERVE THE COURT PAPERS BY PUBLICATION

STEP 1: PUBLISH THE COURT PAPERS.

A. How to serve the court papers by publication if you do not know if the other party lives in the county in which your case is pending (Maricopa County) and/or the other party's last known address was not in Arizona.

1. IF YOU ARE PAYING THE COSTS TO PUBLISH, USE ANY PAPER OF GENERAL CIRCULATION not limited to those listed below, but they must use a format acceptable to the Court. Publications that regularly publish legal notices that are familiar with the requirements include the following:

a. **THE RECORD REPORTER.** Call (602) 417-9900 to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, American Express, and checks or money orders made payable to the Record Reporter, are accepted. The cost, for example, of publishing a Summons in a divorce case is \$65.33 (as of 2/6/2006).

Mail or deliver payment and the letter that is attached to this form along with a copy of the documents you filed with the Clerk, to: Record Reporter, Legal Advertising, 1505 N. Central, Suite 200, Phoenix 85004.

b. **THE ARIZONA BUSINESS GAZETTE.** Call (602) 444-7315 to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, checks and money orders, are accepted.

Mail payment and the letter that is attached to this form along with a copy of the documents you filed with the Clerk, to:
Arizona Business Gazette, Legal Advertising, P. O. Box 194, Phoenix, AZ 85001,
OR if you have already arranged payment, you may fax the documents to (602) 444-7364. **OR,**

You may deposit the above in the DROP BOX near the Clerk of Superior Court's filing counter at 201 W. Jefferson in Phoenix.

OR,

2. If you have a Court Order **DEFERRING SERVICE COSTS**, you **MUST** use **THE ARIZONA BUSINESS GAZETTE**. (602-444-7315). Follow the instructions in "b", above and include the **Certified Order Deferring Publication Fees** with the other papers delivered to The Gazette.

Notice: There is a filing fee for all Petitions and there are Service Fees. You may request a **"Waiver or Deferral"** of the Filing Fees (and the Sheriff's Service Fees if you intend to use the Sheriff's Office for service) or publication fees at the time you file your papers with the Clerk of the Court.

B. How to publish service if the other party's last known address is in Arizona and that address is not in the county in which your case is pending:

1. You must publish in the county in which your case is pending and you must publish in a newspaper in the county of the last known residence of the person to be served.
2. To publish in Maricopa County follow the instructions in "A" above how to publish service of process if the other party lives in the same county in which your case is pending.
3. To publish in another county (not Maricopa County) you will need to contact a newspaper company in that county.

STEP 2: WAIT. Wait for the newspaper to send you the original of the document called "**AFFIDAVIT OF SERVICE**" in about five weeks.

STEP 3: COMPLETE YOUR PAPERWORK:

- A. **Fill out** the "**AFFIDAVIT SUPPORTING PUBLICATION**", which is attached. Examples of steps you **MUST** take before you can Serve by Publication: verify the Respondent is not at any last known address(es), talk to Respondent's friends, family members, employer, co-workers, former co-workers or employer(s), or anyone else you think may have a current address. Search telephone directories, the Internet, voter registration records, and obituaries. You may also have to consider hiring a private detective or a company that charges a fee to do computer searches to help you track down the other party.
- B. **ATTACH** a copy of the published notice from the newspaper(s).
- C. **KEEP A COPY** for yourself of the "**AFFIDAVIT SUPPORTING PUBLICATION**".

STEP 4: FILE THE COURT PAPERS:

- A. File the original of the "**AFFIDAVIT SUPPORTING PUBLICATION**", and a copy of the publication(s), and;
- B. File the original "**AFFIDAVIT OF SERVICE**" you received from the newspaper(s).

STEP 5: COUNT:

- A. Find out the date the other party was served with the court papers. You can find this date by looking at the date of the first newspaper publication. Then, count the days for the other party to file a Response or Answer. (When counting down the days, start counting with the day after the first day of publication.)
- B. If the other party does not file a Response or Answer within the required time period, read the default packet checklist to see if it applies.
- C. If the other party files a Response or Answer, see a lawyer for help.

Print Name

Print Address

_____, 20
Date

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Court Case No. _____
Enclosed is a copy of the following documents stamped by the Clerk of Court (list all the documents here:)

1. _____
2. _____
3. _____

Please publish a Notice in your newspaper about this court case once a week for four successive weeks. Also enclosed is (check one box):

- A check or money order in the amount of \$ _____ for the cost of the publication as requested.
 A certified copy of the Order from the court waiving the publication costs.

When you receive this letter, please call me at _____ to tell me when the first publication will occur. When all four weeks of publication have been completed, please send to me the original and one copy of an Affidavit of Publication.

Thank you for your help in this matter.

Yours truly,

Sign your name

Enclosures:

- Court documents AND
 Check or Money Order OR
 Certified copy of Court Order of Waiver/Deferral of Publication Fees

Name of Person Filing Document: _____
 Your Address: _____
 Your City, State, Zip code: _____
 Your Telephone Number: _____
 ATLAS Number (if applicable): _____
 Attorney Bar Number (if applicable): _____
 Representing Self (Without a Lawyer) OR Attorney for Petitioner OR Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

Case Number: _____

 Name of Petitioner/Plaintiff

AFFIDAVIT SUPPORTING PUBLICATION

 Name of Respondent/Defendant

1. I make this Affidavit to tell the Court why service by publication was used, and to show how service by publication was done.

2. Pursuant to Arizona Rules of Civil Procedure, Rules 4.1(n), 4.1(o), 4.2(f), and 4.1(g), service by publication is the best way to notify the other party of this court case because the other party is:
 - Avoiding service of process. I have mailed, postage prepaid, a copy of the following legal documents:

 to the last known address of the other party on or before the first date of Publication, OR
 - The other party's residence is unknown. I have not mailed copies of the proceedings to the other party.

3. The residence and whereabouts of the other party is unknown to me, even though I have made a diligent search to find out. My search failed to reveal any information that might lead to knowledge about the other party's residence or whereabouts. This is what I did to try to find the other party. (Check all boxes that apply. Note: This list is not all inclusive. There may be other options available to you as well. Explain everything you did to try to find the other party):
 - Searched the phone directories Searched on the Internet Checked voter records
 - Checked obituaries
 - Asked members of Respondent's family: (Who?) _____

 - Checked with Respondent's previous employer: _____

Case No. _____

Any other person(s) that you spoke to about Respondent: (Who?) _____

- 4. To the best of my knowledge, information, and belief, the other party is not in the military service of the United States.
- 5. The following document(s) was/were published in a newspaper in the county, where my case is pending on the following dates.

A. ___ / ___ / ___, B. ___ / ___ / ___, C. ___ / ___ / ___, D. ___ / ___ / ___.

AND/OR

The following document(s) _____ was/were published in a newspaper in the county of the other party's last known address or in an adjoining county if no newspaper is published in the county of the other party's last known address, which is in Arizona and that address is not within the county in which my case is pending:

A. ___ / ___ / ___, B. ___ / ___ / ___, C. ___ / ___ / ___, D. ___ / ___ / ___.

- 6. A copy of the notice as published and the Affidavit of Publication is attached.
- 7. I have read this statement and know of my own knowledge that the facts stated herein are true and correct.

Your Signature

SUBSCRIBED AND SWORN to before me this date _____, by _____
(Month, Day, Year)

My Commission Expires _____
Notary Public

INSTRUCTIONS: ATTACH the original of the Affidavit of Publication from the Newspaper(s) to this page.