

**CAO FL Instruction 1-4
SERVING THE SUMMONS BY PUBLICATION
(WHEN YOU CAN'T FIND THE OTHER PARTY)**

To start any lawsuit, the Petitioner must file a Petition with the court and notify the Respondent what is going on. Often, the Petitioner has not seen his or her spouse or the other parent for some time and may have no idea where the other party is; yet, the Petitioner must still make a good faith effort to see that the other party gets the court documents and has an opportunity to contest the case if s/he wishes to do so. If you genuinely do not know where the other party is, you must be prepared to demonstrate to the court clerk and to the judge that you have tried your best to find them. Here are some ways in which to do that:

Step 1- Attempt to find the other party:

1. Write a letter to your other party's parents at their last known address and inquire as to their whereabouts. Send the letter by certified mail, return receipt requested, and keep a copy of the letter. Be sure you date the letter and include your return address so the family can notify you about their location. When the receipt is returned to you, keep it with your copy of the letter.
 2. Do the same thing with friends of the other party who might know where s/he is. Again, keep copies of your inquiries.
 3. Contact the Department of Motor Vehicles in the state or states where you believe the other party was last. Ask the Department for their address. Depending on the state, the Department may require that you complete a special form and pay \$2.00 to \$5.00 for it to process the information. They also may want to know why you want the information.
 4. Visit the public library in your city or town and check through city directories or telephone books in towns where the other party might be or might have been. Write down what you have done to locate the other party in this way.
 5. Contact the voter registrar in the county or counties where the other party might be living and ask for his or her current address. Again, keep a copy of your letter and mail it with return receipt requested.
 6. If the other party receives benefits from the federal government, such as Social Security or Veteran's Administration benefits, you may be able to get the government to give you their current address. You will have to complete a special application for the information, explaining your purpose for requesting it. Some agencies may not be willing to give it to you.
 7. If the other party is paying child support, you can fill out a Request for Information at the Child Support Services Office that may allow them to release his/her current address to you.
- Note:** As you attempt to find the other party through the various efforts outlined above, please keep in mind that if the other party does not receive actual notice of your divorce, custody or modification proceeding, s/he can contest property division, child custody and support when s/he does find out about it later on. Also, if you have not tried to discover where the other party is before you publish, the judge may not grant your divorce or custody decree or modification judgment until you do so.

Step 2 - Obtain the following forms:

- CAO FL 1-4 Motion and Affidavit for Service by Publication
- CAO FL 1-5 Order for Service
- CAO FL 1-6 Summons by Publication
- CAO FL 2-3 Affidavit of Mailing of Summons & Petition Pursuant to Order for Publication

Step 3 - Complete these forms and make copies:

- **Motion and Affidavit for Service by Publication.** Assemble the proof of your work in trying to locate the other party and attach it to the **Motion and Affidavit for Service by Publication**. Complete the information in the Affidavit and sign it certifying that the information is true and accurate, subject to the penalty of perjury if it is not. Make one copy of the Affidavit for your records.
- **Order for Service.** Note that the Order requires the last known address of the other party. Note also that you must name the newspaper you have selected to publish the Summons. The newspaper you choose should be one that is circulated in the area where you think the other party now lives or where s/he has lived and either s/he or someone s/he knows will read it and, in that way, the other party will be given notice that you have filed for a divorce, custody or modification. Make two more copies of your completed Order for Publication and keep one copy for your records.
- **Summons.** Make two copies.

Step 4 - Take these completed forms to the court clerk for filing:

- The original and copies of your **Petition** – see CAO D Instruction 1-1
- The filing fee – visit <http://www.courtselfhelp.idaho.gov/filingfees> for current filing fees)
- CAO FL 1-4 Motion and Affidavit for Service by Publication
- CAO FL 1-5 Order for Service (original and one copy)
- CAO FL 1--64 Summons by Publication (original and two copies)
- Self-addressed, stamped envelope (With enough postage so the court clerk can mail back to you 2 copies of the Petition, the original and 2 copies of the Summons and 1 copy of the Order for Service.)

The judge will review your Affidavit and if it is acceptable, sign the Order for Service, giving you permission to serve the other party by publication. The court clerk will then complete the Summons and mail your copies to you in the self-addressed, stamped envelope you provided. If you do not provide the postage paid envelope, you will need to contact the courthouse to see if the judge has signed the Order for Service by Publication and return to the courthouse to pick up your copies. **YOU MAY NOT SERVE THE OTHER PARTY BY PUBLICATION UNLESS THE COURT SIGNS AN ORDER GIVING YOU PERMISSION TO DO SO.**

Step 5 - (After receiving back a signed copy of the Order for Service, allowing you to serve the Summons by Publication, and the signed Summons):

- Mail a copy of the Summons and a copy of the Petition to the other party at the last known address most likely to give him/her notice.
- Complete the **Affidavit of Mailing of Summons and Petition Pursuant to Order for Publication of Summons**. Sign the Affidavit of Mailing certifying that the information is true and accurate, subject to the penalty of perjury if it is not.
- File the original **Affidavit of Mailing of Summons and Petition** with the court and keep a copy for your records.

Step 6 - Make arrangements for the newspaper to publish the Summons

- Contact the newspaper you have listed in the Order for Publication. Ask if you will need to prepay for the publication of the Summons. If so, ask what form of payment they will accept (cash or personal check).
- Deliver a **copy** of the Summons to the newspaper. You must include payment for four

separate publications unless the newspaper will bill you later for the total amount. **Request that the newspaper publish the Summons once a week for four consecutive weeks.** Provide the newspaper with your name, address and telephone number. Provide a stamped, self-addressed envelope to the newspaper. **Do NOT send the original Summons to the newspaper. Keep the original Summons in a safe place. You will need it later.**

- The newspaper will send you a notice that proves the Summons was published (this is called a “Proof of Publication”).

Step 7 - File with the Court:

- Proof of Publication (make a copy for your records)
- Original Summons

Step 8 - Wait 21 Days: Begin with the day after the last date the Summons was published.

Step 9: Complete and File with the Court:

- Motion and Affidavit for Entry of Default, (keep a copy for your records)
- Default, (keep a copy for your records)

See CAO D Instruction 7-1 for continued instructions to Finalize your Divorce