

# Service By Publication

**Before attempting Service by Publication, you should consider seeking legal assistance. There are specific and complicated rules that must be followed to successfully serve a party by publication.**

Service by Publication is a **last resort** and can **only** be used if personal service did not work. **This Service by Publication Packet is available ONLY to assist individuals who are filing an action for divorce/legal separation.** You have a responsibility to make every effort to make personal service if possible, which includes gathering **reasonably available information** from family and friends to try and determine the other party's location, where the other party works, socializes, or car type and license plate number.

You may use this packet to attempt **Service by Publication** only if the following apply:

- You have tried personal service through the Sheriff's Department or a Private Process Server
- You have given them as much information as possible to help them find the other person
- The Sheriff's Department or Process Server cannot find the other person after a diligent search
- You have been given an **Affidavit of Due Diligence/Not Found/ Attempted Service** stating the other person could not be found. Keep this affidavit.

**NOTE:** Even if you were unable to find the other party using one of the primary methods, you must still have him/her served within the 90-day deadline established by statute. If you are unable to serve the other party within the required time limits, you may write a letter to the court within the **90-day time limit** requesting up to **60 more days** to have the other party served. You must then have the other party served by publication within the time limits provided by the court.

## Procedural Checklist

- Prepare a cover letter like the following example.

[Date]

Spouse's Name  
Last Known Address  
City, State ZIP

RE: Case Title [Jane Doe v. John Doe]  
Case No.: Court Case Number [07FA123]

Dear [Spouse's Name]:

Enclosed please find a [name the documents enclosed], which I have filed in the Waukesha County Circuit Court.

Sincerely,

Your name [Jane Doe]

- Make a copy of the cover letter for your records.
- Mail to your spouse at his/her last known address the original cover letter and a copy of the Documents. (If the mailing is returned to you, keep it for your court hearing.)
- Complete the **Publication Affidavit of Mailing** (FA-4123).
- Complete the **Publication Summons** (FA-4122).
- Take the **Publication Summons** to the newspaper in the municipality where your spouse currently lives, or where his/her last known address is located. There will be a fee, which cannot be waived by the court. The **Publication Summons** must be **published in the newspaper once a week for 3 consecutive weeks** and is considered served on the first day of publication.

**Note:** There are official newspapers in many municipalities, but generally you can use any newspaper regularly published at least once a week in the city, village, or town where your spouse lives, or you think he/she may live.

- The Newspaper will provide you with a document as proof of the publication.
- Take the following documents to the Court, as soon as possible and keep a copy for your records.
  - Affidavit of Due Diligence/Not Found/Attempted Service provided by the Sheriff's Department or private process server.
  - Your cover letter
  - Publication Affidavit of Mailing
  - Proof of the Service by Publication from the newspaper