

# **Serve by Certified Mail or Publication**

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If you've filed a court case but you haven't been able to personally serve the person you're suing, you can file a motion asking for court permission to serve the other party by publication in a newspaper or by mail.

## **1. Fast facts**

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### **Do I have to serve the other party?**

Yes: When you first start a new case in court, you must have a copy of your summons, petition (or complaint), and other papers you're filing delivered to the person you're filing the case against ("the other party"). We call this having the other party "served" or "service of process."

The other party has a legal right to receive a copy of the papers you file. The judge won't make any decisions in your case until you can show proof that the other party got copies of your court papers.

In certain types of cases, if you can't have the other party personally served, you have other options. If you're filing a divorce, parentage, petition for parenting plan, or petition to change parenting plan, and you haven't been able to have the other party personally served, you can file a motion asking for permission to serve the other party by mail or by publication in a newspaper.

### **Do I always need court permission to serve by mail?**

If you've already served the summons and petition on the other party, and you're giving them more documents during the case, you generally don't need court permission to serve by mail. Follow our step-by-step instructions to serve papers after a case starts.

You also **don't** need advance permission from a judge to serve these specific papers by mail (with return receipt):

- Petition to Modify Child Support Order, if you are changing a child Support Order signed by a Washington State Court
- Notice of Intent to Move with Children (Relocation)
- Objection about Moving with Children and Petition about Changing a Parenting/Custody Order (Relocation)

## Why should I not try to serve by mail or publication?

Service by mail or publication is complicated and technical. Courts only allow it in special situations. It usually gives the court only limited authority (limited jurisdiction) over the other party.

**Examples:** You may not be able to have property and debts divided, get a restraining order, get a child support order, or decide parentage.

There are other downsides to serving by mail or publication. A judge could later decide that the service was improper. If, for example, the judge doesn't believe you tried hard enough to find the other party, the judge may cancel all your court orders, even years down the road.

## Can I ask to serve by mail because the other party lives out of state and I can't afford personal service?

The law may let you serve the other party by mail if you have a very low income, but **we don't recommend you do this**.

- It will give the court only limited jurisdiction.
- There's a chance your papers will be challenged, even years later, because you didn't have the other party personally served.

Have the other party personally served in all cases where possible. Try asking the sheriff in the county where the other person lives to serve for you, or hire a professional “process server” (a professional who serves legal papers).

### When will a judge allow service by mail or publication?

The judge may grant your motion to serve by mail or publication if you can show either of these:

- The other party deliberately hid from you, your server or servers **or**
- The other party moved, has no forwarding address, you don’t know where they work, truly have no idea where they are, and have no way to find out

### How do I prove I can't have someone personally served?

Before you can even file a motion to serve the other party by mail or publication, you must first make honest, reasonable efforts to try to find the other party for personal service. You can’t just assume the other party can’t be found.

### Is service by mail or service by publication better?

If you have any mailing address (even a close relative’s address) you could use, **try first to get an order to serve by certified mail**. You can ask to serve the other party by certified mail if personal service has been unsuccessful, and a certified letter is just as likely to notify the other party as publishing the Summons in a newspaper in the Legal Notices section.

**Ask to serve by publication only as a last resort** if you can’t get an order to serve by mail. Service by publication costs a lot. It may be less likely than service by mail to reach the other party.

## 2. Reasonable efforts

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You must **put effort** into finding the other party for personal service before asking to serve by another method. Ask questions and follow leads.

You'll list all your efforts and the results in your motion. If something you did resulted in a lead, you must put in your motion how you followed that lead, and the result.

Examples:

- **Hire a process server** to personally serve the other party wherever the other party can be found, or abode service at the other party's home.
- **Try calling possible phone numbers** for the other party to try to find them.
- **Ask the Post Office for a forwarding address** from the last known address you have.
- **Search online for all cities or towns** where the other party might live.
- Call every friend, roommate, or relative of the other party you know.
- If the other party pays child support through DCS, and your petition asks for a change to child support or parenting plan or custody order, do a DCS Address Disclosure Request (<https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/18-176A.pdf>). It may take time to get the other party's address this way.
- Check with **current or former employers**, unions, or co-workers for a home or work address.
- **Contact other known third parties** who could help you find the other party (**examples:** a college or church you know the other party goes to or has gone to).
- If you think the other party may own real estate, check the **property records** for the county where you think the property is.

### 3. Serve by mail

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If you can't personally serve after making reasonable efforts, here's how to file a motion to serve by mail:

1. **Fill out** the service by mail forms and any other forms you need to start your court case. There are different forms depending on your type of case.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

2. **Call** the Superior Court Clerk to schedule a day and time to appear before the judge. Go to court when the clerk tells you to.
3. If the judge signs your order allowing service by mail, **file** the original Motion and Order with the court clerk. Keep a conformed copy of both for yourself.
4. **Make copies** of everything else you'll serve on the other party. You'll need 2 copies for service, one copy to send by certified mail and the other to send via regular mail. Make one extra copy of the Summons. The Summons form must list the date the papers will be mailed.

If you're filing any motions or scheduling any hearings at the start of your case, include those papers too.

5. **Don't mail the papers yourself.** Have someone who lives in Washington and is at least age 18 do it for you. Have your server mail your papers to the other party by both certified and regular mail. Have your return address listed on both envelopes.
6. **Have your server** complete a Proof of Service by Mail form.
7. **File** the Proof of Service by Mail (with the green receipt from the post office and a copy of the summons attached) with the court clerk.

## 4. Serve by publication

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If you can't personally serve after making reasonable efforts, and you also can't serve by mail, here's how to serve by publication.

1. **Fill out** the service by publication forms. There are different forms depending on your type of case.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

2. **Call** the Superior Court Clerk to schedule a day and time to appear before the judge. Go to court when the clerk tells you to.
3. If the judge signs your order allowing service by publication, **file the original** Motion and Order with the court clerk. Keep a conformed copy of both for yourself.
4. **Ask the court clerk** for a list of newspapers authorized to publish legal notices in the county where you've filed your case. Contact the newspapers on that list and ask:

- What's the cost of publication? How and when do you pay them?
- How do you get the Summons to them?
- How do you get the proof of publication back from them?

5. **Have the Summons published** in the newspaper you choose, once a week, for 6 weeks in a row.
6. **Get proof from the newspaper** showing publication has been completed. At the end of the 6 weeks, most newspapers will send you something confirming that they published your Summons for 6 weeks. Attach the proof

to a Proof of Publication cover sheet.

7. **File** the Proof of Publication and Summons with the court clerk.

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