

Samples

Ex Parte Application

IMPORTANT: RED boxes and arrows are instructions, and are not part of your completed document. Text that appears in BLUE is text you will change to fit your case.

1 WILLIAM SMITH
2 10294 MAIN STREET
3 SACRAMENTO, CA
4 95814

5 WILLIAM SMITH, IN PRO PER

6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SACRAMENTO

9) CASE NO. 34-2009-99999999
10 William Smith)
11 Plaintiff/Petitioner,)
12 vs. Enter party names.)
13 Thomas Abbott)
14 Defendant/Respondent.)

15 Application is hereby made for an order directing that summons or citation in this
16 action be served on defendant/respondent Thomas Abbott, by publication of the
17 summons or citation in The Sacramento Daily Recorder, which is a newspaper of
18 general circulation in this state and is most likely to give defendant actual notice of the
19 pendency of this action because the defendant was last known to reside in this county.
20 Explain why you chose this particular newspaper. Usually it is because the defendant was
21 last known to reside in the county where the newspaper circulates.

22 This application is made on the grounds that the plaintiff/petitioner has stated a
23 cause of action against this defendant/respondent, shown by the complaint or petition in
24 this file, and defendant/respondent Thomas Abbott cannot with reasonable diligence be
25 found and served by any other manner.

26 Dated: January 12, 2009

27 WILLIAM SMITH
28 PLAINTIFF IN PRO PER

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Ex Parte Application for Order for Publication of Summons

Ex Parte Application for Publication of Summons (p.1)



1 MEMORANDUM OF POINTS AND

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3 I. Background

4 The complaint or petition, which is for *breach of contract*, was filed on *January 3,*

5 *2009.*

6 The plaintiff has been diligently attempting to have the defendant served with the

7 Summons and Complaint, however despite exercising diligence, the plaintiff has been

8 unable to locate the defendant for service. The plaintiff now asks that the court permit

9 the Summons to be served by publication in *The Sacramento Daily Recorder*, a

10 newspaper of general circulation in the county in which the *defendant was last known to*

11 reside.

12 II. Legal Argument

13 A SUMMONS MAY BE SERVED BY PUBLICATION

14 California Code of Civil Procedure §415.50 permits a Summons to be served upon

15 the defendant by publication upon demonstration by affidavit that the party cannot be

16 served with reasonable diligence personally, by mail, or by substitute service, and that a

17 cause of action exists against that party, or that person is a necessary party, or the

18 party claims an interest in real or personal property that is subject to the jurisdiction of

19 the court. In the present case, the plaintiff has asserted a cause of action against the

20 defendant, and for the reasons explained in the attached declaration cannot with

21 reasonable diligence locate the defendant.

22 For these reasons, the plaintiff asks that the court permit the service of the Summons by

23 publication.

24 Dated: *January 12, 2009*

25

26 Sign and date

27 WILLIAM SMITH

28 PLAINTIFF IN PRO PER

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Ex Parte Application for Order for Publication of Summons

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1 resident of the apartment across the hall from the Defendant's last known
2 residence. Ms. Fitzpatrick stated that the Defendant had moved several weeks
3 prior, and that she had no knowledge of the Defendant's whereabouts. On
4 January 9, Margaret Wilson personally spoke with Justin Sanders, a resident of
5 the apartment next door to the Defendant's last known residence. Mr. Sanders
6 stated that the Defendant had moved several weeks prior, and that he had no
7 knowledge of the Defendant's current whereabouts. I am unaware of any
8 relatives of the Defendant.

9 4. As shown by the declaration or certificate of Margaret Wilson, a registered process
10 server, hereinafter referred to as "process server," which is attached hereto as Exhibit A
11 and made a part hereof, attempts to serve defendant with process in this action were
12 made by the process server. Enter the name and title of the process server who attempted to serve the
13 were unsuccessful. defendant. This person's declaration will be attached as Exhibit A. If others also
14 attempted service or otherwise assisted in your search, include an additional
15 paragraph for each person, including their name, title, and a summary of their role
16 in the search. Their declarations will be attached as Exhibits B, C, D, etc.

17 5. I am unaware of any other reasonable source of information or informant that would
18 have facts leading me to locate the defendant or respondent. I cannot, after reasonable
19 diligence, locate and serve the party.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Dated: January 12, 2009

23
24 Sign and date

25 WILLIAM SMITH
26 PLAINTIFF IN PRO PER
27
28



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<h1>Exhibit A</h1>	
	Declaration of Margaret Wilson	
Ex Parte Application for Publication of Summons (p. 5)		



Your process server and anyone else who attempted to serve or locate the defendant/respondent should write a declaration identifying themselves, and detailing their attempts.

DECLARATION

I, Margaret Wilson, declare the following:

1. I am over the age of 18 and not a party to this case.
2. I am a California registered process server, registration 01-234.
3. On December 20, 2008, I was hired by the William Smith to serve Thomas Abbott with the Summons and Complaint in this case.
4. On December 21, 2008, I searched the person locator database on LexisNexis, and located two possible addresses for Thomas Abbott based upon William Smith's description of him.
5. I traveled to the first address, 1313 Mockingbird Lane, Sacramento, California 95834 on December 26, 2008. The residence at that address appeared dilapidated and worn down. The windows were boarded up, and nobody appeared to live there. I knocked on the door without answer, and noticed that a "Condemned" notice had been taped to the door and window. I left a business card on the door with a note to contact me.
6. I traveled to the second address, 987 Squirrel Run, Apt. 42, in Sacramento, California 95898 on January 6, 2009 at 2:30 p.m. There was no answer to my knocks or the doorbell.
7. At 8:00 a.m. on January 7, 2009, I returned to 987 Squirrel Run Apt 42, and found nobody home.
8. I returned to 987 Squirrel Run on January 9, 2009, at 5:30 p.m. While I was knocking on the door, a young man who identified himself as Justin Sanders came from the next door apartment and informed me that Thomas Abbott moved out early in December, and that he did not know any forwarding address, and that I might talk to Kayla Fitzpatrick across the hall in Apt. 40, as she was the on-site manager.
9. I then spoke with Kayla Fitzpatrick, who confirmed that Thomas Abbott had moved out unexpectedly, and that he did not leave a forwarding address, which frustrated her because she needed someplace to send his security deposit.
10. I have been unable to locate any further information regarding the whereabouts of Thomas Abbott.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 11, 2009

Margaret Wilson

Margaret Wilson

Declaration of Margaret Wilson

Ex Parte Application for Publication of Summons (p. 6)



Proposed Order

1 WILLIAM SMITH
2 10294 MAIN STREET
3 SACRAMENTO, CA
4 95814
5 WILLIAM SMITH, IN PRO PER

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SACRAMENTO

9
10 WILLIAM SMITH,)
Plaintiff/Petitioner,)
11 vs.)
12 THOMAS ABBOTT,)
Defendant/Respondent.)

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14 On reading the filings and evidence consisting of plaintiff's application
15 order and the affidavit(s), declaration(s) or certificate(s) of William Smith and Margaret Wilson, and it
16 satisfactorily appearing to me therefrom that defendant Thomas Abbott, hereinafter referred to as

17 reasonable diligence be served in any other manner
mode of Civil Procedure, and that the defendant is a

18
19 IT IS ORDERED that the summons be served by publication in the Sacramento Daily Recorder, a
20 newspaper of general circulation published in Sacramento County, California, hereby designated as the
21 newspaper most likely to give defendant actual notice of the action, and
22 once a week for four successive weeks.

23
24 IT IS FURTHER ORDERED that a copy of the summons, a copy of the complaint, and a copy of
25 this order be forthwith mailed to defendant if his/her address is ascertained before expiration of the time
26 herein prescribed for publication of summons.
27 Dated: _____
28 _____
Judge of the Superior Court

1
Order for Publication of Summons

Enter your name and Address. In Pro Per means you are representing yourself.

Case number.

Enter party names.

Enter the name(s) of the people whose declarations were attached to your Application.

Enter the name of the defendant/respondent you wish to serve by publication.

Enter the name of the newspaper in which you wish to publish the summons.

County in which the newspaper is published.

Proposed Order for Publication of Summons