

Publication of Summons

Publishing a Notice in the Newspaper When You Can't Find the Other Party

When filing a lawsuit, you are required to serve the other party with your summons and complaint, to notify them of the lawsuit. If the other party cannot be located, you will have to ask the court for permission to publish the summons in the newspaper. Publication of summons, as set forth in [California Code of Civil Procedure \(CCP\) § 415.50](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=415.50) (http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=415.50), is considered a method of last resort. The court can only approve your request for an order for publication of summons if you show that the other party cannot be served in any other manner. You will need to prove to the court that you have made thorough, exhaustive attempts to locate the other party.

Templates and Forms

- [Application for Publication of Summons Template .RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-application.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-application.rtf>)
- [Order for Publication of Summons Template .RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-order.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-order.rtf>)

The procedures described in this Guide apply only to civil cases. If you are attempting to serve documents in a family law case, see the guide on [Service by Publication or Posting in Family Law Cases](https://www.saclaw.org/resource_library/family-law-service-by-publication-or-posting/) (https://www.saclaw.org/resource_library/family-law-service-by-publication-or-posting/).

Related Step-by-Step Guides

[Finding People and Businesses](https://www.saclaw.org/resource_library/finding-people-and-businesses/) (https://www.saclaw.org/resource_library/finding-people-and-businesses/)

[Family Law: Service by Publication or Posting](https://www.saclaw.org/resource_library/family-law-service-by-publication-or-posting/) (https://www.saclaw.org/resource_library/family-law-service-by-publication-or-posting/)

Step-by-Step Instructions

1.

Search for the Absent Party

The court will require an exhaustive search for the other party before permitting publication of a summons. To conduct an exhaustive search for the other party:

- Try personal service, using the Sheriff or a process server. If using a process server who attempts to locate persons, ask for documentation of their attempts to locate the party.
- Contact all relatives and friends who might know the party's whereabouts. Keep records of all these contacts, such as a diary detailing telephone calls and copies of letters you send, etc.
- Contact the party's last known employer.
- Search the telephone directory for the city where the party was last known to live, and attempt contact at any listings that could possibly be the person to be served.
- Check the County Recorder's and County Tax Assessor's indexes for the location where the party was last known to live or own real property.
- Check the local jail inmate list and the California Department of Corrections and Rehabilitation inmate locator service.
- Search for the defendant using common, free, search engines.

For more information on locating a person or business, see the guide on [Finding People and Businesses](https://www.saclaw.org/resource_library/finding-people-and-businesses/) (https://www.saclaw.org/resource_library/finding-people-and-businesses/).

After all these attempts, if you are still unable to locate the other party, you may ask the court for permission for publish your summons in the newspaper.

2.

Select a Newspaper for Publishing your Summons

In your application, you must specify the newspaper in which you plan to publish your Summons. This must be a paper of general circulation in the location where the party was last known to reside. A list of newspapers of general circulation in Sacramento County can be found on the [court's website](http://www.saccourt.ca.gov/general/docs/newspapers-gen-circulation.pdf) (<http://www.saccourt.ca.gov/general/docs/newspapers-gen-circulation.pdf>).

If the other party was last known to reside outside Sacramento County, check with the Superior Court in that county. The courts typically maintain a list of all approved newspapers of general circulation in their county. These lists are often available on the court's website. Links to the websites of each California Superior Court are available at [California Courts: Find My Court](http://www.courts.ca.gov/find-my-court.htm) (<http://www.courts.ca.gov/find-my-court.htm>).

Please be aware that each newspaper is a private company, and **the fee to publish the summons is not waived by a court fee waiver**. Each newspaper sets its own rate for publication, which can range from \$35 to as much as \$400.

Each newspaper also has its own policy as to whether the paper files the proof of publication, or whether they give it to you and require you to file it with the court yourself.

2.

Obtain Declarations and Supporting Documents

You will need to obtain declarations from anyone else involved in the search for the other party. These declarations in support of your application may be typed or handwritten on [Declaration \(MC-030\)](http://www.courts.ca.gov/documents/mc030.pdf) (<http://www.courts.ca.gov/documents/mc030.pdf>), with [Attachment to Judicial Council Form \(MC-025\)](http://www.courts.ca.gov/documents/mc025.pdf) (<http://www.courts.ca.gov/documents/mc025.pdf>) attached, if additional pages are needed, or may be typed on [28-line pleading paper](https://www.saclaw.org/wp-content/uploads/2023/04/form-pleading-paper-sacramento-county.rtf) (<https://www.saclaw.org/wp-content/uploads/2023/04/form-pleading-paper-sacramento-county.rtf>), which is available from the Law Library's website. If you use pleading paper, do not forget to include the declaration under penalty of perjury clause, "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

If you had the Sheriff or process server attempt service, ask them to provide documentation of their attempts.

These declarations and supporting documents will be attached to your application as exhibits. See Step 6 for more information.

4.

Complete the Necessary Pleadings

Instructions for completing the necessary pleadings are included at the end of this packet. The documents you will need to prepare are:

- [Ex Parte Application for Order of Publication of Summons, Points and Authorities, and Declaration in Support of Application for Order for Publication of Summons](https://www.saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-application.rtf) (<https://www.saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-application.rtf>)
- [Order for Publication of Summons](https://www.saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-order.rtf) (<https://www.saclaw.org/wp-content/uploads/2023/04/sbs-publication-of-summons-order.rtf>)

If you prefer, you may prepare your Application, Points and Authorities, and Declaration as separate documents, or they may be combined into a single document, as in the case of the template and sample included in this Guide. The Order must always remain a separate document. ([California Rule of Court Rule 3.1112](https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1112) (https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1112)). You may download customizable templates of the application and order from the links listed above.

5.

Make Photocopies

Make two (2) copies each of:

- Ex Parte Application, including the points and authorities and your supporting declaration
- Any supporting declarations you obtained from others involved in your search (see Step 3)
- Order for Publication of Summons

6.

Assemble Your Papers

Assemble your copies into packets for filing. You will have two types of packets.

For each packet type, one packet should include all your original documents; the other two packets should include only photocopies. Staple each set of photocopies, but **leave the packets of originals unstapled**. The originals will be scanned into the court's filing system, and the staple will damage the scanner. Put the originals packet at the top of each stack.

Application Packets

Each Application packet will include:

- Ex Parte Application for Order for Publication of Summons, with points and authorities and your declaration in support of your application
- Exhibits, including any supporting declarations or other documentation as described in Step 3 above.

Order Packets

Each Order packet will include:

- Order for Publication of Summons

7.

File your Papers

Ex Parte Applications for Order for Publication of Summons are filed at the law and motion civil filing department, Room 212 in the Hall of Justice building at 813 Sixth Street. Fill out and attach the [Civil Law and Motion Document Drop-Off Sheet](https://www.saccourt.ca.gov/forms/docs/cv-lm-drop-off-sheet.pdf) (<https://www.saccourt.ca.gov/forms/docs/cv-lm-drop-off-sheet.pdf>), and date stamp the back of the original packets. Following the instructions posted at the drop box, place the unstapled original document packet plus two (2) photocopies of the packet in the drop box, along with a check or money order for the filing fee, [currently \\$20](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf>). Your documents will be forwarded to the law and motion department and will be processed without hearing. Provide the court with a self-addressed stamped envelope to facilitate the return of the order to you.

If your application is granted, the court will mail your signed Order for Publication of Summons to you. If your request is denied, you will receive an order from the court denying your request. Most often the reason a request is denied is because the court does not feel that adequate steps have been taken to attempt to find the person to be served, however the notice will state the reason for denial. If you are able to correct the problems found by the court, such as conducting a more thorough search for the absent party, you may file a new Application.

8.

Publish the Summons

Once the court grants the order to publish, your next step is to publish the summons in a newspaper. Even though you are publishing the summons, if you discover the whereabouts of the defendant you should arrange to have that defendant personally served with the summons and complaint.

Submit your summons and signed order to the newspaper you listed in your application.

The newspaper will publish your summons once a week for four weeks, and then provide you with confirmation of publication. Some newspapers will mail you a confirmation, some will have you pick it up, and some will even file it with the court. Contact the newspaper for details.

9.

File Your Proof of Publication

If the newspaper does not file proof of publication with the court, you will need to do this yourself. This is a very important step; your case cannot move forward until proof of publication is filed with the court. The proof of publication will include an affidavit or declaration from the publisher listing the dates your summons was published ([CCP Â§ 417.10\(b\)](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=417.10)) (http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=417.10), attached to a copy of the document that appeared in the paper ([CCP Â§ 2010](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=2010.). Pursuant to [California Government Code Â§ 6064](#) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=6064.), service is deemed complete on the 29th day after the first date of publication.

10.

Next Steps

If the other party has not filed a response 30 days after the effective date for service, you may request a default against the other party. You will then be able to continue your case without the other party's participation. For more information on your next steps, see the guides [Request a Default Judgment by Clerk](#) (https://www.saclaw.org/resource_library/request-a-default-judgment-by-clerk-2/) and [Request a Default Judgment by Court](#) (https://www.saclaw.org/resource_library/request-a-default-judgment-by-court/).

If the other party **does** respond to the lawsuit, your case will move into the discovery phase. There are many procedures available to you during discovery. See [Discovery](#) (https://www.saclaw.org/legal_topic/discovery-process-to-get-evidence-from-other-side/) topic page for informational guides and videos..

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

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

9 William Smith
10 Plaintiff/Petitioner,
11 vs. Enter party names.
12 Thomas Abbott
13 Defendant/Respondent.

Case number.

CASE NO. 34-2009-99999999

EX PARTE APPLICATION FOR ORDER
FOR PUBLICATION OF SUMMONS;
POINTS AND AUTHORITIES;
DECLARATION

14

Enter the defendant/respondent's name, and the
newspaper in which you will publish the summons.

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.

Explain why you chose this particular newspaper. Usually it is because the defendant was
last known to reside in the county where the newspaper circulates.

20 This application is made on the grounds that the plaintiff/petitioner has stated a

21 cause of action against this defendant/respondent, shown by the complaint or petition in

22 this file, and defendant/respondent Thomas Abbott cannot with reasonable diligence be

23 found and served by any other manner.

Defendant/respondent's name.

24

25 Dated: January 12, 2009

Sign and date

WILLIAM SMITH
PLAINTIFF IN PRO PER

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1
Ex Parte Application for Order for Publication of Summons

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



1	MEMORANDUM OF POINTS AND	Enter the cause of action you are alleging in your complaint or petition, e.g., "breach of contract" or "personal injury," and date the case was filed.
2		
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	Enter the name of the newspaper in which you will publish the summons.
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
	2	
	Ex Parte Application for Order for Publication of Summons	
	Ex Parte Application for Publication of Summons (p. 2)	



1	<div style="border: 1px solid red; padding: 2px;">Your name</div>	DECLARATION
2		
3		I, <u>William Smith</u> , am the plaintiff in this action, and I declare the following in support of
4		my application to permit service on the defendant by publication:
5		1. A cause of action exists against the party upon whom service is to be made, and he
6		or she is a necessary or proper party to the action.
7		2. Despite a diligent attempt to locate the respondent for service, I have been unable
8		to do so.
9		3. I have made the following efforts to learn defendant or respondent's whereabouts:
10		a) On <u>January 8, 2009</u> , I searched the following records in the Court
11		<u>Sacramento</u> for the name of <u>Thomas Abbott</u> and for the following
12		that name: <u>Thomas R. Abbott, Thomas Ryan Abbot, Tom Abbott</u>
13		i. County Recorder and County Tax Assessor indexes
14		ii. Telephone Directory, dated <u>November 2008</u>
15		iii. Other _____
16	<div style="border: 1px solid red; padding: 2px;">Check the applicable box.</div>	<input type="checkbox"/> The party's name was not found in any of the searches listed above.
17		<input checked="" type="checkbox"/> The party's name was found in <u>the telephone directory, dated November 2008</u>
18		and the following attempts were made to locate the party at the addresses shown
19		<u>I personally called the number listed in the telephone directory, 916-555-9876,</u>
20		<u>but the number was disconnected. Registered process server Margaret Wilson</u>
		<u>attempted personal service at the address listed in the telephone directory, but</u>
		<u>Defendant no longer resides at that address according to the current tenant.</u>
	<div style="border: 1px solid red; padding: 2px;">Describe your additional attempts to locate the party. Be detailed. Include descriptions of your contacts with all relatives and friends who might know the party's whereabouts. Be sure to include the party's last known employer.</div>	b) I made the following attempts to locate the party through relatives, friends,
		and others likely to know the present whereabouts of the party: <u>On January 4, 2009, I</u>
		<u>personally spoke with Jerry Keating, a friend of both Plaintiff and Defendant. Mr.</u>
		<u>Keating stated that he had not seen the Defendant in several months, and had</u>
		<u>no knowledge of his current whereabouts. On January 6, 2009, I called Ajax Car</u>
		<u>Repair, the Defendant's last known employer, and spoke with the manager, Doug</u>
		<u>Lasiter. Mr. Lasiter had no knowledge of Defendant's current whereabouts. On</u>
		<u>January 9, 2009 Margaret Wilson personally spoke with Kayla Fitzpatrick, a</u>
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		Ex Parte Application for Order for Publication of Summons
		Ex Parte Application for Publication of Summons (p.3)

Describe all your efforts to locate the other party using government records and common, free, search engines.

If the party's name was found, describe the record in which it was found. Describe your attempts to locate the party at the addresses found, including attempts to serve the party at that address.



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

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24 Sign and date

25 WILLIAM SMITH
26 PLAINTIFF IN PRO PER
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Exhibit A

Declaration of Margaret Wilson

Ex Parte Application for Publication of Summons (p. 5)



DECLARATION

I, Margaret Wilson, declare the following:

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.

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)

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