

PUBLICATION OF SUMMONS

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

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at saclaw.org/publication-of-summons.

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 – Family Law Cases” on our website at saclaw.org/fam-law-service-pub.

Related Step-by-Step Guides

- [Finding People and Businesses](#)
- [Service by Publication or Posting – Family Law Cases](#)

BACKGROUND

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](#), 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.

STEP-BY-STEP INSTRUCTIONS

Step 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.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

- 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” on our website at saclaw.org/finding-people.

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

Step 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 online at 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 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.

Step 3: 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 \(MC-030\)](#), with [Attachment to Judicial Council Form \(MC-025\)](#) attached, if additional pages are needed, or may be typed on 28-line pleading paper, which is available from the Law Library’s website at saclaw.org/pleading-paper-sacramento. 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.

Step 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](#)
- [Order for Publication of Summons](#)

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](#)). You may download customizable templates of the application and order from the links listed above.

Step 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

Step 6: Assemble Your Papers

Assemble your copies into packets for filing. You will have two types of 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.
- Each Order packet will include:
- Order for Publication of Summons

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.

In Sacramento County, the exhibits in one set of photocopies must be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. The Law Library sells exhibit tabs at the Circulation Desk.

Exhibits for the original and other copy should be separated by a blank piece of pleading paper with their exhibit letter or number typed or written at the bottom of the page.

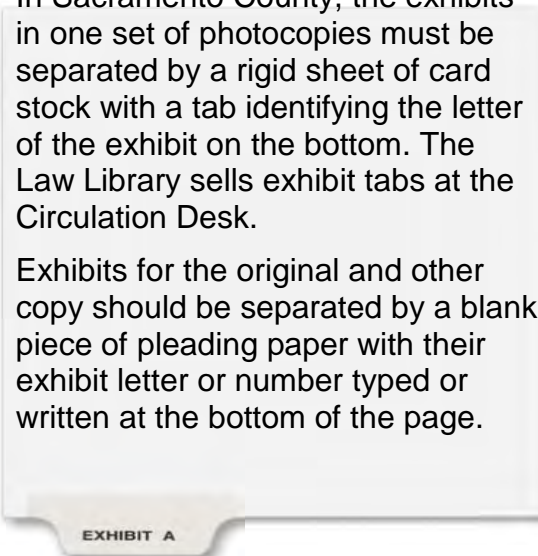


EXHIBIT A

Step 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 Document Drop-Off Sheet (www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf), and date stamp the back of the original packet. 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 Credit Card Authorization Form for the filing fee, currently \$20 (see www.saccourt.ca.gov/fees/docs/fee-schedule.pdf for current fees). 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.

Step 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.

Step 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 § 417.10\(b\)](#)), attached to a copy of the document that appeared in the paper ([CCP § 2010](#)). Pursuant to [California Government Code § 6064](#), service is deemed complete on the 29th day after the first date of publication.

Step 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" and "Request a Default Judgment by Court" on our website at saclaw.org/request-dj-clerk and saclaw.org/request-dj-court respectively.

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 the guides and instructional videos available on our website at saclaw.org/law-101/discovery-topic for more information.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

ATTACHMENTS: FORMS AND INSTRUCTIONS

There is no Judicial Council form for this procedure. Instead, the relevant documents must be typed on 28-line pleading paper. Customizable templates may be downloaded from these links:

- [Ex Parte Application for Order of Publication of Summons, Points and Authorities, and Declaration in Support of Application for Order for Publication of Summons](#)
- [Order for Publication of Summons](#)

If anyone assisted you in your search for the absent party, you may also need:

- [Declaration \(MC-030\)](#)
- [Attachment to Judicial Council Form \(MC-025\)](#)

Sample filled-in forms with instructions are available at the end of this Guide.

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

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

5 WILLIAM SMITH, IN PRO PER

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF SACRAMENTO

Case number.

9 William Smith

10 Plaintiff/Petitioner,

11 vs.

12 Thomas Abbott

13 Defendant/Respondent.

Enter party names.

) 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
15 newspaper in which you will publish the summons.

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

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

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

Defendant/respondent's name.

27 Dated: January 12, 2009

28 Sign and date

WILLIAM SMITH
PLAINTIFF IN PRO PER

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.

I. Background

The complaint or petition, which is for breach of contract, was filed on January 3, 2009.

The plaintiff has been diligently attempting to have the defendant served with the Summons and Complaint, however despite exercising diligence, the plaintiff has been unable to locate the defendant for service. The plaintiff now asks that the court permit the Summons to be served by publication in The Sacramento Daily Recorder, a newspaper of general circulation in the county in which the defendant was last known to reside.

Enter the name of the newspaper in which you will publish the summons.

II. Legal Argument

A SUMMONS MAY BE SERVED BY PUBLICATION

California Code of Civil Procedure §415.50 permits a Summons to be served upon the defendant by publication upon demonstration by affidavit that the party cannot be served with reasonable diligence personally, by mail, or by substitute service, and that a cause of action exists against that party, or that person is a necessary party, or the party claims an interest in real or personal property that is subject to the jurisdiction of the court. In the present case, the plaintiff has asserted a cause of action against the defendant, and for the reasons explained in the attached declaration cannot with reasonable diligence locate the defendant.

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

Dated: January 12, 2009

Sign and date

WILLIAM SMITH
PLAINTIFF IN PRO PER

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Your name

DECLARATION

I, [William Smith](#), am the plaintiff in this action, and I declare the following in support of my application to permit service on the defendant by publication:

1. A cause of action exists against the party upon whom service is to be made, and he or she is a necessary or proper party to the action.
2. Despite a diligent attempt to locate the respondent for service, I have been unable to do so.
3. I have made the following efforts to learn defendant or respondent's whereabouts:

a) On [January 8, 2009](#), I searched the following records in the County of [Sacramento](#) for the name of [Thomas Abbott](#) and for the following that name: [Thomas R. Abbott, Thomas Ryan Abbot, Tom Abbott](#):

- i. County Recorder and County Tax Assessor indexes
- ii. Telephone Directory, dated [November 2008](#)
- iii. Other _____

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

Check the applicable box.

The party's name was not found in any of the searches listed above.

The party's name was found in [the telephone directory, dated November 2008](#) and the following attempts were made to locate the party at the addresses shown: [I personally called the number listed in the telephone directory, 916-555-9876, but the number was disconnected. Registered process server Margaret Wilson attempted personal service at the address listed in the telephone directory, but Defendant no longer resides at that address according to the current tenant.](#)

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.

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.

b) I made the following attempts to locate the party through relatives, friends, and others likely to know the present whereabouts of the party: [On January 4, 2009, I personally spoke with Jerry Keating, a friend of both Plaintiff and Defendant. Mr. Keating stated that he had not seen the Defendant in several months, and had no knowledge of his current whereabouts. On January 6, 2009, I called Ajax Car Repair, the Defendant's last known employer, and spoke with the manager, Doug Lasiter. Mr. Lasiter had no knowledge of Defendant's current whereabouts. On January 9, 2009 Margaret Wilson personally spoke with Kayla Fitzpatrick, a](#)

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
26 WILLIAM SMITH
27 PLAINTIFF IN PRO PER
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Important: Sacramento County Superior Court requires each of the Exhibits in **one** of your set of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number typed or written on the bottom of the page.

Note: The Law Library sells card stock and tabs at the Circulation Desk.

Exhibit A

Exhibit Page
(made of card stock)
with Rigid Tab at bottom

DECLARATION

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.

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

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

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

5 WILLIAM SMITH, IN PRO PER

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

9 Case number.

10 WILLIAM SMITH,
11 Plaintiff/Petitioner,
12 vs.
13 THOMAS ABBOTT ,
14 Defendant/Respondent.

Enter party names.

) CASE NO. 34-2009-9999999
)
) ORDER AFTER EX PARTE APPLICATION FOR
) PUBLICATION OF SUMMONS
)

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

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

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

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

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

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 County in which the de
22 once a week for four successive weeks.

County in which the
newspaper is published.

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

26 Dated: _____

27 _____
28 Judge of the Superior Court