

# Service:



How to Make Sure Your Spouse Gets Served with Notice of Your Complaint, with Notice of any Motion for Contempt, or with Notice of any Motion that Re-Activates Your Case.

# Why Service?

- The rules require it.
- The legal system requires notice and a hearing before you may be deprived of your life, liberty, or property.

Before we start, we need to show you four slides of important information.



See the speaker symbol here? We'll soon have these symbols on all pages of this presentation. Once we do, if you turn on the sound of your computer, and click on the speaker, you'll hear us read the slides for you.

# WELCOME

- Welcome to Judge John T. Wallace's community legal education project. The presentation you're about to watch will guide you through some of the forms and processes relating to divorce cases.
- The information we provide is not legal advice and does not create a lawyer-client relationship with you.
- We cannot guarantee any specific outcome in your case and we are not responsible for any errors on your forms or any errors in what you do in your case.

# WHY HIRE AN ATTORNEY?

- If you are terminating your marriage or filing a motion after your divorce is final, you are always better off having an attorney.
- You should hire a lawyer if you can afford one, especially if your divorce case is complicated. Complicated divorces include those where you or your spouse own real estate, have a lot of property to divide, have a business, have retirement account(s), or disagree on the custody of your children. You should also hire a lawyer if your spouse hired a lawyer, or if your spouse has a much higher income than you do.

# HOW TO HIRE AN ATTORNEY

- If you need a lawyer or specific advice about your case you have several options. If you can afford a lawyer you should reach out to your local bar association for a lawyer referral. Ryan Shepler is the President of the Hocking County Bar Association. He is available via phone 740-385-2121 or email [ryanjshepler@gmail.com](mailto:ryanjshepler@gmail.com).
- If your spouse has much higher income than you have, your attorney may ask the court to order your spouse to pay for your attorney.
- If you are low income, you can contact your local legal aid program. If you need information about which legal aid society covers your community, call the following number 866-529-6446. 866-LAWOHIO.
- Many communities also have free clinics where low income people can talk to a volunteer lawyer. Your local legal aid program will have a list of clinics near you.

# ABOUT FORMS

- Many of the forms you will complete in a divorce case can be found online on the Ohio Supreme Court website [here](#):

<http://www.sconet.state.oh.us/jcs/cfc/drforms/>

- The forms available online may be completed in Microsoft Word or PDF form on a computer.
- If you are not able to complete them on a computer, you can hand write the forms. Be sure to print as clearly as possible and always use a pen. Some courts require you to use a pen with blue or black ink. So you may want to check with your local Common Pleas Clerk of Courts on ink requirements before you fill out the forms. Hocking County Common Pleas Court has no ink color requirement.
- Note that even though the Supreme Court provides many forms, you will be filing them in your local Common Pleas Court Clerk of Court's office, not in the Supreme Court.



Now we'll start:

# Service:



How to Make Sure Your Spouse Gets Served with Notice of Your Complaint, with Notice of any Motion for Contempt, or with Notice of any Motion that Re-Activates Your Case.



If your spouse agrees to waive service, your spouse can fill out and you can file Ohio Supreme Court Uniform Domestic Relations Form 27.

If your spouse waives service, you can skip the rest of this presentation, and consider yourself lucky.

Form 27 can be found [here](http://www.sconet.state.oh.us/jcs/cfc/drforms/):  
<http://www.sconet.state.oh.us/jcs/cfc/drforms/>

IN THE COURT OF COMMON PLEAS  
Division  
COUNTY, OHIO

IN THE MATTER OF:

A Minor

Plaintiff/Petitioner

Street Address

City, State and Zip

vs.

Defendant/Respondent/Petitioner

Street Address

City, State and Zip Code

Case No.

Judge

Magistrate

WAIVER OF SERVICE OF SUMMONS

I, \_\_\_\_\_ (name), acknowledge that I am the  Petitioner  Plaintiff  
 Defendant  Respondent (select one) and that I have received a copy of the following documents filed or  
to be filed by the other party:

- Complaint for Parentage
- Complaint  Motion (select one) for Allocation of Parental Rights and Responsibilities (Custody)
- Complaint  Motion (select one) for Parenting Time (Companionship and Visitation)
- Complaint  Motion (select one) for Establishment or Change of Child Support
- Journal Entry and Findings of Fact Supporting Child Support Deviation
- Health Insurance Affidavit
- Complaint for Divorce with Children
- Complaint for Divorce without Children
- Separation Agreement
- Shared Parenting Plan
- Parenting Plan
- Petition for Dissolution
- Agreed Judgment Entry, Magistrate's Decision, Order, and/or Magistrate's Order
- Affidavit of Income and Expenses

This is the second page of  
Form 27.

- Affidavit of Property
- Parenting Proceeding Affidavit
- Motion for Contempt and Affidavit
- Motion and Affidavit or Counter Affidavit for Temporary Orders with Oral Hearing
- Other (specify): \_\_\_\_\_

I waive service of summons of said document by the Clerk of Court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Telephone number at which the Court may reach you  
or at which messages may be left for you

If your spouse won't waive service, and you \*know\* your spouse's address, you have choices:

Certified Mail Service – inexpensive



Residence Service – usually a standard sheriff's fee plus mileage



Personal Service - usually a standard sheriff's fee plus mileage



Certified Mail Service, where the Clerk of Courts sends the papers via certified mail to your spouse, is allowed by Civ. R. 4.1(A)(1)(a)



Residence Service, where the sheriff delivers the papers to your spouse's home, is allowed by Civ.R. 4.1(C).



Personal Service, where the sheriff delivers the papers directly to your spouse, is allowed by Civ. R. 4.1(B)



All of the Ohio Rules of Civil Procedure, including Rules 4 through 4.5, which govern service, are located on the Ohio Supreme Court website here:

<https://www.supremecourt.ohio.gov/LegalResources/Rules/civil/CivilProcedure.pdf>

# Use the Ohio Supreme Court's Uniform Domestic Relations Form 28.

You can find Form 28 several places on the Ohio Supreme Court's website including [here](http://www.sconet.state.oh.us/jcs/cfc/drforms/):

<http://www.sconet.state.oh.us/jcs/cfc/drforms/>

IN THE COURT OF COMMON PLEAS

Division

COUNTY, OHIO

IN THE MATTER OF:

A Minor

Name

Case No.

Street Address

Judge

City, State and Zip Code

Plaintiff/Petitioner

Magistrate

vs./and

Name

Street Address

City, State and Zip Code

Defendant/Petitioner

**Instructions:** This form is used when you want to request documents to be served on the other party. You must indicate the requested method of service by marking the appropriate box.

## REQUEST FOR SERVICE

TO THE CLERK OF COURT:

Please serve the following documents on the following parties as I have indicated below.

Defendant/Petitioner at the address shown above.

Certified Mail, Return Receipt Requested

Issuance to Sheriff of \_\_\_\_\_ County, Ohio for  Personal or  Residence service

Other (specify) \_\_\_\_\_

Supreme Court of Ohio  
Uniform Domestic Relations Form – 28  
Uniform Juvenile Form – 10  
REQUEST FOR SERVICE

Approved under Ohio Civil Rule 84 and Ohio Juvenile Rule 46  
Effective Date: 7/1/2013



Make sure to include the names of the parties and their addresses.



List the documents you want served here:



Here are the boxes to check for serving the Defendant and for choosing how to serve that person:



IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_  
Division  
\_\_\_\_\_  
COUNTY, OHIO

IN THE MATTER OF:

A Minor

Name

Street Address

City, State and Zip Code

Plaintiff/Petitioner

vs./and

Name

Street Address

City, State and Zip Code

Defendant/Petitioner

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

Magistrate \_\_\_\_\_

**Instructions:** This form is used when you want to request documents to be served on the other party. You must indicate the requested method of service by marking the appropriate box.

### REQUEST FOR SERVICE

TO THE CLERK OF COURT:

Please serve the following documents on the following parties as I have indicated below:

- Defendant/Petitioner at the address shown above.
- Certified Mail, Return Receipt Requested
- Issuance to Sheriff of \_\_\_\_\_ County, Ohio for  Personal or  Residence service
- Other (specify) \_\_\_\_\_

Supreme Court of Ohio  
Uniform Domestic Relations Form - 28  
Uniform Juvenile Form - 10  
REQUEST FOR SERVICE  
Approved under Ohio Civil Rule 84 and Ohio Juvenile Rule 46  
Effective Date: 7/1/2013



Here are the boxes to check for serving the Plaintiff, and for choosing how to serve that person:



If you want residence service, describe the location of the residence. If you want personal service, describe the person and say what time of day and where might be best for the Sheriff to find the person.



- Plaintiff/Petitioner at the address shown above.
  - Certified Mail, Return Receipt Requested
  - Issuance to Sheriff of \_\_\_\_\_ County, Ohio for  Personal or  Residence service
  - Other (specify) \_\_\_\_\_
  
- \_\_\_\_\_ County Child Support Enforcement Agency (provide address below):
  - Certified Mail, Return Receipt Requested
  - Issuance to Sheriff of \_\_\_\_\_ County, Ohio for  Personal or  Residence service
  - Other (specify) \_\_\_\_\_
  
- Other (address): \_\_\_\_\_
  - Certified Mail, Return Receipt Requested
  - Issuance to Sheriff of \_\_\_\_\_ County, Ohio for  Personal or  Residence service
  - Other (specify) \_\_\_\_\_

SPECIAL INSTRUCTIONS TO SHERIFF:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Your Signature

Print Form



Special Note – if certified mail service comes back “unclaimed” or “refused,” you may then request the Clerk of Courts to send the papers by ordinary mail. You can write that request onto another Form 28.

If you do NOT know your spouse's address, check with friends, family, and public records such as:

Real estate and property tax records

Court, police, and sheriff records

Voter registration records

If you have children with your spouse, you have an additional option for locating your spouse:

Ohio Administrative Code Section 5101:12-20-05 says that the Child Support Enforcement Agency (CSEA) must provide parents with a “location-only service” to help parents locate their other parent. You can visit the CSEA office to learn more and to request this service.

## Two “Last Resort” Methods of Service:

If, after checking with friends, family, public records, and your local CSEA, you still can't find an address or other location of your spouse, then you can request service by posting if you are poor, or service by publication if you are not poor.

# Service by Posting

Ohio Rule of Civil Procedure 4.4(A)(2) covers service by posting, which is available only to people who are too poor to pay for service by publication. You'll need to sign an affidavit in front of a notary public, and then you'll have to take the affidavit and a judgment entry form to the Clerk of Courts.

See the next slides for help.

# Service by Posting Forms

The forms you need for Service by Posting are explained on the next two slides, and can be found as pages 37 & 38 of this packet:

<http://www.seols.org/wp-content/uploads/2015/10/Divorce-with-Children.pdf>



Here's the affidavit you need to fill out for service by posting.

Make sure to include the names of the parties...  
...and your name.  
...and your spouses' last known mailing address.

Do not sign the affidavit until you are with a notary public.



IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
Plaintiff,

Case No. \_\_\_\_\_

vs.

\_\_\_\_\_  
Defendant.

**AFFIDAVIT FOR SERVICE  
PURSUANT TO O.R.C.P.  
4.4(A)(2)**

I \_\_\_\_\_, being first duly sworn and cautioned, depose  
and show:

1. I have filed for a divorce and am not able to prepay the filing fees;
2. I do not know the current address of the defendant, my spouse;
3. I have made efforts to determine the defendant's current address but have been unable to do so;
4. The defendant's residence cannot be learned with reasonable effort;
5. The defendant's last known mailing address is:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Affiant

STATE OF OHIO, COUNTY OF \_\_\_\_\_, SS:

Sworn to before me and signed in my presence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

This is the Judgment Entry Form you need to give to the Clerk of Courts along with your affidavit.

Fill out the parties' names on the form, and the name of the county. If you know the case number and judge, you should fill out that information, too.



The judge will decide whether to sign the form.

Order A

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
(Your Name)

Plaintiff,

vs.

\_\_\_\_\_  
(Your Spouse's Name)

Defendant.

Case No. \_\_\_\_\_

(Court will complete)

Judge \_\_\_\_\_

(Court will complete)

JOURNAL ENTRY

The Plaintiff having filed an Affidavit pursuant to Civil Rule 4.4(A)(2) which satisfies the Court that the residence of the Defendant is unknown, and the Court being satisfied that due diligence has been exercised by Plaintiff, now ORDERS the Clerk of Courts to post service of notice pursuant to O.R.C. Rule 4.4(A)(2) and any applicable local rules.

\_\_\_\_\_  
JUDGE

cc: Plaintiff

# Service by Publication

Ohio Rule of Civil Procedure 4.4(A)(1) covers service by publication. The next few slides tell you the three steps of doing service by publication. See the rule for details.

# Service by Publication, Step 1:

First, you'll need to sign an affidavit in front of a notary public. You can use the affidavit used for Service by Posting, but change the rule number to 4.4(A)(1) and delete the reference to you being unable to pay the filing fees, like this:



IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
Plaintiff, Case No. \_\_\_\_\_

vs.

\_\_\_\_\_  
Defendant. **AFFIDAVIT FOR SERVICE  
PURSUANT TO O.R.C.P.  
~~4.4(A)(2)~~ 4.4(A)(1)**

I, \_\_\_\_\_, being first duly sworn and cautioned, depose  
and state as follows:

1. I have filed for a divorce ~~and am not able to prepay the filing fees;~~
2. I do not know the \_\_\_\_\_ address of the defendant, my spouse;
3. I have made efforts to determine the defendant's current address but have been  
unable to do so;  
The defendant's residence cannot be learned with reasonable effort;
5. The defendant's last known mailing address is:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Affiant

STATE OF OHIO, COUNTY OF \_\_\_\_\_, SS:

Sworn to before me and signed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

## Service by Publication, Step 2:

Second, you'll have to go to your local newspaper's office and pay approximately \$270 or more to have notice of your court action published in a newspaper once a week for six weeks. The newspaper will need to see a copy of your complaint.

## Service by Publication, Step 3:

Lastly, you'll have to give the Clerk of Courts an affidavit from the newspaper that says it published the notice for six weeks. The newspaper might mail that to you, or ask you to pick it up after the end of the six weeks.

All of the Ohio Rules of Civil Procedure, including Rules 4 through 4.5, which govern service, are located on the Ohio Supreme Court website here:

<https://www.supremecourt.ohio.gov/LegalResources/Rules/civil/CivilProcedure.pdf>



The earlier forms in the presentation are from the Ohio Supreme Court's collection of forms for divorce and custody actions located [here](#):

<https://www.sconet.state.oh.us/JCS/CFC/DRForms/>

# A REMINDER: WHY HIRE AN ATTORNEY?

- If you are terminating your marriage or filing a motion after your divorce is final, you are always better off having an attorney.
- You should hire a lawyer if you can afford one, especially if your divorce case is complicated. Complicated divorces include those where you or your spouse own real estate, have a lot of property to divide, have a business, have retirement account(s), or disagree on the custody of your children. You should also hire a lawyer if your spouse hired a lawyer, or if your spouse has a much higher income than you do.

# A FINAL NOTE

- Thank you for viewing this presentation, which is a part of Judge John T. Wallace's community legal education efforts.
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- We cannot guarantee any specific outcome in your case and we are not responsible for any errors on your forms or any errors in what you do in your case.