

## **TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2810, RELATING TO SERVICE BY PUBLICATION IN PATERNITY CASES.

**BEFORE THE:**

COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Wednesday, March 2, 2016

**TIME:** 10:01a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Lynette J. Lau, Administrator, Child Support Enforcement Agency

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Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill.

The provisions of this bill amend section 584-8, Hawaii Revised Statutes (HRS), to clarify that service by publication is allowed in those situations where defendants in paternity cases cannot be located or personally served.

Currently, section 584-8(c), HRS, only specifies service by registered or certified mail when the defendant is not found within the circuit although it does indicate that other methods of service provided by statute or court rule apply. The family court has long authorized the Department of the Attorney General, Child Support Enforcement Agency, to serve defendants in paternity cases by publication if they cannot be located or personally served. Furthermore, all other types of family court proceedings including divorce, adoption, guardianship, and child protective services, have explicit provisions in the relevant statutes authorizing service by publication of a person who cannot be located or personally served. There is no similar wording in section 584-8, HRS. This measure will codify the family court's practice of allowing service by publication in paternity cases and make service in these cases consistent with service in other family court proceedings. This measure also benefits the public by explicitly providing for an additional method of service in the establishment of paternity and by helping to make the child support process more efficient.

The Department of the Attorney General respectfully asks the Committee to pass this bill.

**TESTIMONY OF THOMAS D. FARRELL**

Regarding Senate Bill 2810 Relating to Service by Publication in Paternity Cases

Senate Committee on Judiciary and Labor  
Senator Gilbert S. C. Keith-Agaran, Chair

Wednesday, March 2, 2016 10:01 a.m.  
Conference Room 016, State Capitol

Good morning Senator Keith-Agaran and Members of the Committee:

SB 2810 is a terrible idea and should go no farther than this Committee.

Current law requires that before you can be legally established as the father of a child, you have to actually know that the court is trying to do that. You have to be served with the Petition for Paternity, either personally or by mail, with a return receipt.

If this amendment to Hawaii's Uniform Parentage Act were adopted, there will be a spate of paternity judgments entered by default against men who had no idea that they were fathers or that they were being hauled into court. Imagine that you visit Hawaii, have a little fling here, and go home. Unknown to you, a child is born a few months later. Maybe you are the father, maybe not.

If this bill becomes law, a judgment could be entered against you making you legally and financially responsible for this child without you ever getting actual notice or an opportunity to defend yourself. Any mother could hire my law firm for a paternity case, name you as the daddy, and tell me that she has no idea where you are. No problem. I'll just publish the summons in *Hawaii Hochi*, where I'm sure the absent defendant will see it.

Perhaps years later, when thousands of dollars of child support arrears have accrued and someone finally finds you and assets in your name, there's a lien on your house, your bank account is frozen, you can't get a passport, and your credit rating tanks. And when you try to set aside the judgment, or get a paternity test ordered, the court will say, "Sorry, you were properly served and defaulted, because we allowed service by publication."

I understand that it is desirable to establish paternity and I agree, in principle, with the proposition that no child should be without a legally established father. However, creating the legal obligation of parent based on a notice published where the respondent will never see it is fundamentally unfair.

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\*Certified by the National Board of Trial Advocacy. The Supreme Court of Hawaii grants Hawaii certification only to lawyers in good standing who have successfully completed a specialty program accredited by the American Bar Association.

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THE SENATE  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

COMMITTEE ON JUDICIARY AND LABOR  
Testimony on S.B. 2810  
Hearing: March 2, 2016  
Time: 10:01 A.M.

(RELATING TO SERVICE BY PUBLICATION IN PATERNITY CASES)

Chair Keith-Agaran, Vice Chair Shimabukuro and members of the Committee. My name is Peter Fritz. I am **offering comments**.

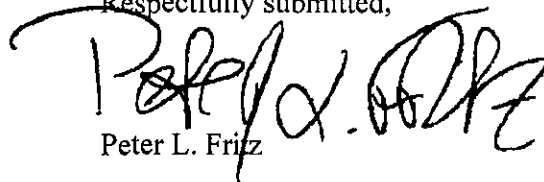
This bill amends the Uniform Parentage Act to allow for service by publication when defendants cannot be located or personally served.

I respectfully suggest that the Committee explore amending this bill to include service of legal process notice by publication to an absent party's e-mail account or posting of the notice to the absent party's social networking account when a party has been unsuccessful in locating or personally serving a defendant. The amendment would allow party to move for court permission, after filing an affidavit that all reasonable efforts to serve legal process personally have been exhausted, to serve and notify evasive parties of legal proceedings through social media accounts or by other electronic means. Several courts have permitted such service and recognized that a person's presence on social media may be easier to trace than locating his or her physical whereabouts.

Alaska is one state that has adopted procedures that allow for posting of a notice to a social networking account or an email to a party's email account. For the Committee's consideration, I have attached an article from Nixon Peabody about service of legal process via social media, a copy of Rule 4 of the Alaska Rules of Civil Procedure, a copy of the webpage of instructions for alternate service, an Alaska form to request to serve defendant by posting and alternative service and affidavit of diligent inquiry and an Alaska form motion for alternate service and.

Thank you for the opportunity to testify.

Respectfully submitted,



Peter L. Fritz

Documents:

1. Do courts like the service of legal process via social media
2. Alaska Rule of Civil Procedure 4
3. Webpage from Alaska Court System Instructions for Alternate Service
4. Alaska Form CIV-145 Request to Serve Defendant by Posting or Alternate Service and Affidavit of Diligent Inquiry
5. Motion and Order for Alternate Service



## Do courts like the service of legal process via social media?

October 22, 2014

Social Media Law Alert

Author(s): [Steven M. Richard](#)

A person's presence on social media may be easier to trace than locating his or her physical whereabouts. After exhausting all reasonable efforts to serve legal process personally, litigants have sought court permission to serve and notify evasive parties of legal proceedings through their social media accounts. So far, courts have been mostly unwilling to allow such alternate service. The central issue concerns whether service through social media furthers or compromises a party's right to be notified in a timely and proper manner under the circumstances of the case.

A recent split 6–3 ruling by the Oklahoma Supreme Court shows the competing considerations about whether a court should allow service via social media. The case concerned adoption proceedings and the termination of the parental rights of the biological parents. [1] After the biological parents broke off their relationship, the mother sent a Facebook message to the father informing him of her pregnancy and intent to give their child up for adoption. The father claimed that he did not uncover and read the Facebook message until after the birth of his daughter. The trial court limited the father's participation in the adoption proceedings and terminated his parental rights. On appeal, the father claimed that his due process rights were prejudiced, as he challenged the sufficiency of the notice provided to him by the mother of her intention to allow their child to be adopted.

A majority of the Oklahoma Supreme Court found the Facebook message to be legally insufficient notice, giving special weight to the fact that nothing indicated the mother could not have contacted the father directly. The majority expressed concerns that a message left on a user's Facebook account "is an unreliable method of communication if the accountholder does not check it regularly or have it configured in such a way as to provide notification of unread messages by some other means." The majority was unwilling to declare notice via Facebook alone sufficient to meet the requirements of due process because it is not reasonably certain to inform those whose rights are at stake. The dissent, however, was less troubled and found the message to constitute sufficient actual notice: "Why would Facebook be any less reliable than other forms of electronic communication? Does the Court require face-to-face confrontation with witnesses? Face-to-face discussions can be denied; letters remained unopened; and faxes can be lost." The dissent believed Facebook to be "a dependable method of communication," especially because the biological parents communicated through the social media site on other occasions.

This Oklahoma Supreme Court's split ruling follows a recent New York Family Court decision, which allowed a father seeking to modify his child support payments to serve legal process upon the child's mother who left no forwarding address by sending a copy of the summons and petition to her Facebook account.[2] While these state court rulings involved familial matters in which the litigants interacted with each other on social media, the issue of service of process through social media has also been a concern in federal court business disputes involving both domestic and international defendants.

The issue has arisen twice in cases before the United States District Court for the Southern District of New York. In one case, a corporate defendant/third-party plaintiff sought to serve a third-party complaint against an individual accused of committing credit card fraud, but reached a dead-end in its efforts to effectuate personal service through Federal Rule of Civil Procedure 4(e) (delivering the summons and complaint personally, leaving copies at the individual's dwelling or usual place of abode with a person of suitable age residing there, or delivering copies to an agent authorized by law).[3] The third-party plaintiff sought court-approval to seek alternative service, including by e-mail, a Facebook message and publication. While allowing service by publication in local newspapers, the district court refused to allow service via e-mail and Facebook. The court concluded that the third-party plaintiff had not set forth enough facts to give a sufficient degree of certainty that the third-party defendant actually maintained the e-mail address or the Facebook account. The court expressed concerns that "anyone can make a Facebook profile using real, fake, or incomplete information."

In a later case, the Southern District of New York allowed alternative service by both e-mail and Facebook upon defendants located in India. [4] The defendants allegedly operated a scheme that tricked American consumers into spending money to fix non-existent problems with their computers, which was operated in large part out of Indian call centers. The Federal Trade Commission submitted the summons, complaint and related documents to the Indian Central Authority for service on defendants, in accordance with Federal Rule of Civil Procedure 4(f)(1) and The Hague Convention, which proved to be unsuccessful.

Under Federal Rule of Civil Procedure 4(f)(3), the Southern District of New York noted that it may fashion means of service on an individual in a foreign country, as long as it is not prohibited by international agreement and comports with constitutional notions of due process. It found that India has not expressly objected to service by e-mail and Facebook. Also, the court concluded that the proposed alternative service would not violate the defendants' due process rights. The FTC provided sufficient facts to instill confidence that the defendants actually operated the Facebook accounts. Two defendants registered their Facebook accounts with the same e-mail addresses to be served. Another registered his Facebook account with the same e-mail address used to register one of the websites germane to the alleged scheme. Some defendants listed their job titles at the defendant companies on their Facebook pages as their professional activities, and some were "friends" with one another on Facebook. Thus, the totality of the evidence showed that service by Facebook would reach the defendants, which was allowed "to backstop" the service upon defendants at their e-mail addresses.

Other federal courts have reached various conclusions regarding alternative service through social media. Both the United States District Court for the District of Kansas and the United

States District Court for the Eastern District of Missouri refused to allow Facebook service upon domestic defendants. The Kansas Federal District Court expressed concerns that, while Rule of Civil Procedure 4(e) allows personal service consistent with the state law where the district court is located or where service is made, Missouri does not authorize electronic mail as a form of service, so service via Facebook would certainly not pass muster.<sup>[5]</sup> The Eastern District of Missouri expressed concerns about the authenticity of the Facebook page targeted for service, indicating that the plaintiff had also failed to show whether the subject Facebook profile was current and active.<sup>[6]</sup>

Earlier this year, the United States District Court for the Eastern District of Virginia allowed alternate service upon a foreign defendant allegedly located in Turkey by e-mail and through two social media sites, Facebook and LinkedIn. <sup>[7]</sup> The court concluded that the proposed methods of service were not prohibited by The Hague Convention. The dispute involved a trademark infringement claim and the parties had engaged in e-mail correspondence regarding the alleged infringement, with the defendant providing contact information including a second e-mail address and a Skype username. The communication trail and an examination of the social media sites provided sufficient corroboration that the e-mail addresses and social media accounts actually belonged to the defendants. By serving the defendant at both of his e-mail addresses and his two social media networking accounts, there was a strong likelihood that the defendant would receive proper notice of the litigation.

In sum, courts remain largely skeptical about the propriety of using social media to effectuate legal service. The United States Supreme Court has held that due process requires that service of process be “reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”<sup>[8]</sup> A litigant must make a strong and compelling showing that utilization of social media is “reasonably calculated” to notify a party of legal proceedings. Diligent and traditional means of effectuating service of process must have failed. Courts will be reluctant to allow a social media message or posting to be the primary or stand-alone means to effectuate service. Rather, it should be coupled with other forms of alternative service such as publication in local newspapers and e-mail service. The proponent of the social media service should present affidavits and credible evidence authenticating that the social media site belongs to the party to be served (e.g., matching an e-mail address and identifying information on the social platform with other independent corroborating evidence). In cases of international service, careful consideration must be given to applicable treaties and agreements (e.g., The Hague Convention) to ensure that social media service is not precluded.

Currently, service via social media should be viewed only as a last resort, but should nonetheless be considered as an option if other means fail and the case remains stalled as a result. As the Southern District of New York wrote in a case allowing such service: “[H]istory teaches that, as technology advances and modes of communication progress, courts must be open to considering requests to authorize service via technological means of then-recent vintage, rather than dismissing them out of hand as novel.”<sup>[9]</sup> With time, courts may be more receptive and flexible in accepting social media as means to effectuate notice of legal proceedings, especially as it proliferates in our daily lives and communications.



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1. *In re Adoption of K.P.M.A.*, No. 111905, 2014 Okla. LEXIS 85 (Okla. Oct. 14, 2014).
  2. <http://nypost.com/2014/09/18/judge-oks-serving-legal-papers-via-facebook/>
  3. *Fortunato v. Chase Bank USA, N.A.*, No. 11 Civ. 6608 (JFK), 2012 U.S. Dist. LEXIS 80594 (S.D.N.Y. June 7, 2012).
  4. *Federal Trade Comm. v. PCCare247, Inc.*, No. 12 Civ. 7189 (PAE), 2013 U.S. Dist. LEXIS 31969 (S.D.N.Y. Mar. 7, 2013).
  5. *Joe Hand Promotions, Inc. v. Mario Carrette*, No. 12-2633-CM, 2013 U.S. Dist. LEXIS 109731 (D. Kan. July 9, 2013).
  6. *Joe Hand Promotions, Inc. v. Shepard*, No. 4:12cv1728 SNLJ, 2013 U.S. Dist. LEXIS 113578 (E.D. Mo. Aug. 12, 2013).
  7. *WhosHere, Inc. v. Orun*, No. 1:13-cv-00526-AJT-TRJ, 2014 U.S. Dist. LEXIS 22084 (E.D. Vir. Feb. 20, 2014).
  8. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).
  9. *Federal Trade Comm. v. PCCare247, Inc.*, *supra*, at \*16-17.



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## Rule 4

## ALASKA COURT RULES

(4) *Corporations or Limited Liability Companies.* Upon a domestic or foreign corporation or limited liability company, by delivering a copy of the summons and of the complaint to a managing member, an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

(5) *Partnerships.* Upon a partnership, by delivering a copy of the summons and of the complaint personally to a general partner of such partnership, or to a managing or general agent of the partnership, or to any other agent authorized by appointment or by law to receive service of process, or to a person having control of the business of the partnership; or if service cannot be made upon any of them, then as provided by order of the court.

(6) *Unincorporated Associations.* Upon an unincorporated association, by delivering a copy of the summons and the complaint personally to an officer, a managing or general agent, or to any other person authorized by appointment or by law to receive service of process; or if service cannot be made upon any of them, then as provided by order of the court.

(7) *State of Alaska.* Upon the state, by sending a copy of the summons and the complaint by registered or certified mail to the Attorney General of Alaska, Juneau, Alaska, and

(A) to the chief of the attorney general's office in Anchorage, Alaska, when the matter is filed in the Third Judicial District; or

(B) to the chief of the attorney general's office in Fairbanks, Alaska, when the matter is filed in the Fourth Judicial District.

(8) *Officer or Agency of State.* Upon an officer or agency of the state, by serving the State of Alaska as provided in the preceding paragraph of this rule, and by delivering a copy of the summons and of the complaint to such officer or agency. If the agency is a corporation, the copies shall be delivered as provided in paragraph (4) of this subdivision of this rule.

(9) *Public Corporations.* Upon a borough or incorporated city, town, school district, public utility district, or other public corporation in the state, by delivering a copy of the summons and of the complaint to the chief executive officer or chief clerk or secretary thereof.

(10) *Unknown Parties.* Upon unknown persons who may be made parties in accordance with statute and these rules, by publication as provided in subdivision (e) of this rule.

(11) *Officer or Agency of State as Agent for Non-governmental Defendant.* Whenever, pursuant to statute, an officer or an agency of the State of Alaska has been appointed as agent to receive service for a non-governmental defendant, or whenever, pursuant to statute, an officer or agency of the State of Alaska, has been deemed, considered or construed to be appointed as agent for a non-governmental defendant by virtue of some act, conduct or transaction of such defendant, service of process shall be made in the manner provided by statute.

(12) *Personal Service Outside State.* Upon a party outside the state in the same manner as if service were made within the state, except that service shall be made by a sheriff, constable, bailiff, peace officer or other officer having like authority in the jurisdiction where service is made, or by a person specifically appointed by the court to make service, or by service as provided in subsection (h) of this rule. In an action to enforce any lien upon or claim to, or to remove any encumbrance or lien or cloud upon the title to, real or personal property within the state, such service shall also be made upon the person or persons in possession or in charge of such property, if any. Proof of service shall be in accordance with (f) of this rule.

(13) *Personal Service in a Foreign Country.* Upon an individual in a foreign country—

(A) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(B) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(i) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction;

(ii) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(iii) unless prohibited by the law of the foreign country, by delivery to the individual personally of a copy of the summons and the complaint, or by any form of mail requiring a signed receipt by the party to be served, so long as the return receipt is filed with the court; or

(C) by other means not prohibited by international agreement as may be directed by the court.

Regardless of which method of service is followed for personal service in a foreign country, before entry of judgment, the court must be satisfied that the method used was a method reasonably likely to effect actual notice.

(e) **Other Service.** When it shall appear by affidavit of a person having knowledge of the facts filed with the clerk that after diligent inquiry a party cannot be served with process under subsections (d) or (h) of this rule, service shall be made by posting on the Alaska Court System's legal notice website and as otherwise directed by the court as provided in this subsection. The party who seeks to have service made under this subsection shall include in the affidavit of diligent inquiry a discussion of whether other methods of service listed in paragraph (c)(3) may be more likely to give the absent party actual notice. In adoption cases, service by posting on the Alaska Court System's legal notice website or by publication will be allowed only if ordered by the court for compelling reasons.

## RULES OF CIVIL PROCEDURE

## Rule 4

(1) *Diligent Inquiry.* Inquiry as to the absent party's whereabouts shall be made by the party who seeks to have service made, or by the party's attorney actually entrusted with the conduct of the action, or by the agent of the attorney. It shall be made of any person who the inquirer has reason to believe possesses knowledge or information as to the absent party's residence or address or the matter inquired of. Unless otherwise ordered by the court, diligent inquiry shall include a reasonable effort to search the internet for the whereabouts of the absent party. The inquiry shall also be undertaken in person or by letter, and the inquirer shall state that an action has been or is about to be commenced against the party inquired for, that the object of the inquiry is to give such party notice of the action in order that such party may appear and defend it. When the inquiry is made by letter, postage shall be enclosed sufficient for the return of an answer. The affidavit of inquiry shall be made by the inquirer. It shall fully specify the inquiry made, of what persons and in what manner it was made, and a description of any efforts that were made to search the internet, so that by the facts stated therein it may appear that diligent inquiry has been made for the purpose of effecting actual notice.

(2) *Service by Posting on the Alaska Court System's Legal Notice Website.* A notice shall be continuously posted for four consecutive weeks on the Alaska Court System's legal notice website. Prior to the last week of posting, the party who seeks to have service made must send the absent party a copy of the notice and the complaint or the pleading (A) by registered or certified mail, with return receipt requested, with postage prepaid, and (B) by regular first class mail. The notice must be addressed in care of the absent party's residence or the place where the party usually receives mail, unless it shall appear by affidavit that the absent party's residence or place is unknown or cannot be determined after inquiry.

(3) *Additional Service by Other Methods.* In addition to the service required under paragraph (2), the court, in its discretion, may require service of process to be made upon an absent party in any other manner that is reasonably calculated to give the party actual notice of the proceedings and an opportunity to be heard. The method of service could include publication of the notice in a print or online newspaper or other publication at least once a week for four consecutive weeks: **service of the notice to the absent party's e-mail account; posting of the notice to the absent party's social networking account;** physically posting a copy of the notice and complaint on a public bulletin board or on the front door of the absent party's place of residence; or any method the court determines to be reasonable and appropriate.

(4) *Mailing Required.* If service is allowed by any method listed in paragraph (3), the party who seeks to have service made must also send the absent party a copy of the notice and the complaint by mail as required in paragraph (2). Proof of mailing shall be made by affidavit of a deposit in a post office of the copies of the notice and the complaint or other pleadings.

(5) *Form and Contents of Notice—Time.* The notice referred to in paragraphs (2), (3) and (6) shall be in the form of a summons. It shall state briefly the nature of the action, the

relief demanded, and why the party to whom it is addressed is made a party to the action. Where the action concerns real property or where real property of a party has been attached, the notice shall set forth a legal description of the property, shall state the municipality or district in which it is located, and the street or road on which the property is situated, and if the property is improved, it shall state the street number of the same. Where personal property of a party has been attached, the notice shall generally describe the property. If a mortgage is to be foreclosed, the notice shall state the names of all parties thereto and the dates that the mortgage was executed. The notice shall specify the time within which the absent party has to appear or answer or plead, which shall not be less than 20 days after personal service or, if service is made by publication, not less than 30 days after the last date of publication, and shall state the effect of a failure to appear or answer or plead. If the absent party does not appear or answer or plead within the time specified within the notice, the court may proceed as if such party had been served with process within the state.

### (6) *Proof of Service.*

(A) *Service by Posting on the Alaska Court System's Legal Notice Website.* If service is made by posting to the Alaska Court System's Legal Notice Website, proof of posting shall be made by certification of the court clerk. A printed copy of the posted notice and the dates of posting shall be attached to the clerk's certificate.

(B) *Service by Publication in a Printed Newspaper.* If service is made by publication in a printed newspaper, proof of publication shall be made by the affidavit of the newspaper's publisher, printer, manager, foreman, or principal clerk, or by the certificate of the attorney for the party at whose instance the service was made. A printed copy of the published notice with the name of the newspaper and dates of publication marked therein shall be attached to the affidavit or certificate.

(C) *Service by Posting to an Online Publication Website.* If service is made by posting to an online publication website, proof of posting shall be made by affidavit of the online publication's publisher, printer, manager, foreman, or principal clerk, or by the certificate of the attorney for the party at whose instance the service was made. A printed copy of the posted notice with the name of the online publication and dates of posting marked therein shall be attached to the affidavit or certificate.

(D) *Service by E-mail or Posting to a Social Networking Account.* If service is made by e-mail or posting to a social networking account, proof of e-mail transmission or electronic posting shall be made by affidavit. If service is made by e-mail, a copy of the sent e-mail transmission shall be attached to the affidavit. If service is made by posting a notice on the absent party's social networking account, a screen print of the posting shall be attached to the affidavit.

(E) *Service by Posting to a Public Bulletin Board or on the Front Door of the Absent Party's Place of Residence.* If service is made by posting to a public bulletin board or on the front door of the absent party's place of residence, proof of

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## Instructions for Alternate Service

- [What is alternate service?](#)
- [How do I do alternate service?](#)
- [What are the steps to post to the legal notice website?](#)
- [How do I know whether to post to the court's legal notice website or use another method?](#)
- [What happens after the alternate service is done?](#)
- [What forms do I use for alternate service?](#)

### What is alternate service?

Usually when you start a case you are required to serve the defendant by a process server or certified mail/restricted delivery/return receipt. However, sometimes you cannot locate the defendant. In that situation, you may ask the court for permission to serve the defendant in a different way. For example, you can ask to post on the court's legal notice website, post to someone's social media account, email, publish in a newspaper that the defendant reads or post at a shelter or some other location the defendant is known to frequent.

### How do I do alternate service?

Before filing anything, you need to try every method to find the defendant, which is called "diligent inquiry." Then you have to file a request to the court asking to serve the defendant by another method, such as posting to the court's legal notice website. You can read about all of the steps below to ask the court to post to the court's legal notice website or another method of service.

### What are the steps to post to the legal notice website?

1. Begin your [diligent inquiry](#). This means you must look really hard for someone. Please see our [Tips on Locating People](#) for ideas of how to look. Keep track of that you try to find the [defendant](#). If you can't find the defendant, you'll have to file a request asking for permission to do alternate service and list out what you tried, including that you:
  - wrote to and/or questioned defendant's friends and family
  - wrote to and/or questioned defendant's current and previous employer(s)
  - checked telephone directories and Polk city directories (available at the library), and called telephone information
  - used a locate-and-research company (such as Accurint, Ingens, Motznik, etc.) to find the defendant
  - conducted people-finder research on the Internet
  - checked Facebook and/or other online social networks
  - sent the summons to the defendant by first class mail (not certified) and included postage sufficient for the return of an answer
  - inquired of motor vehicle registrars at specific cities
  - called utility companies
  - searched property tax listings




- searched the Alaska Court System's trial court records online ([www.courtrecords.alaska.gov/](http://www.courtrecords.alaska.gov/)) to find any cases involving the defendant
  - went to the courthouse to check the file(s) for a current address
  - checked out of state court records
  - searched recorded or filed documents at the Recorders Office of the Alaska Dept. of Natural Resources (<http://dnr.alaska.gov/ssd/recoff/search.cfm>) and recorders' offices outside of Alaska
  - searched business license information at the Alaska Division of Corporations, Business, and Professional Licensing (<http://www.commerce.state.ak.us/>) and other local and state agencies outside of Alaska
  - searched military locator services including:
    - Air Force: (210) 565-2660
    - Army: (703) 325-8151 or (866) 771-6357
    - Navy: (866) 827-5672
    - Marines: (703) 784-3942 or (800) 268-3710
    - Coast Guard: <http://www.uscg.mil/locator>
    - [www.dmdc.osd.mil/appj/scra/scraHome.do](http://www.dmdc.osd.mil/appj/scra/scraHome.do)
  - checked to see if the defendant is in a state jail facility in Alaska by calling the Department of Corrections at (907) 269-7425.
2. If you cannot find the person after trying all of the different things listed above, you will need to open your case so that you can get the summons and standing order from the court. See [forms and instructions for starting a case](#) for more information. Once you have the documents ready to file, you must complete your [diligent inquiry](#) by attempting to serve the other side copies of the documents by certified mail/ restricted delivery/ return receipt and/or [process server](#).
3. After your case is open, if you were NOT able to serve the opposing party by the US postal service or a process server, you can ask the court to serve the opposing party by another method such as posting on the court's free legal notice website. If you think there is a better method to notify the defendant, such as posting to a social media account, e-mailing, publishing in a newspaper, or physically posting on a bulletin board, you can ask for that specifically.

Fill out:

- Request to Serve Defendant by Posting or Alternative Service, and Affidavit of Diligent Inquiry, [CIV-145 PDF](#).
- In the *Request* section, check the:
- 1st box if you want to post to the court's free legal notice website. Fill out the *Affidavit* section through No. 4.
  - 2nd box if you want to serve by another method. Fill out the entire *Affidavit* section, including No. 5 that states why you think another method is likely to provide notice.
- Notice to Absent Defendant, [CIV-101 PDF](#). Fill out everything but the signature and date lines. If the Judge approves your request, the clerk will send this notice back to you.
  - If you attempted to have the defendant served by process server or by certified mail, attach copies of the Return of Service or green postal card.
4. Make one copy of each of these documents and any attachments.
5. File the original documents at your local court. Keep one copy for your records.
6. Now you wait. The clerk will be directed to sign the *Notice to Absent Defendant* if the court finds your attempts to notify the defendant to be sufficient. The court will then post the notice on the Alaska Court System's legal notice website for 4 weeks in a row.

7. Before the last week of posting, you must send a copy of the *Notice* and the complaint by **regular first class mail and registered or certified mail** to the defendant at defendant's last known residence or workplace. However, if you have already tried to serve the defendant by certified mail, then before the last week of posting, just send by regular first class mail.

File:

- Affidavit, SHC-1625 [Word](#) | [PDF](#)  (1 week before posting ends that states you:
    - tried to serve the defendant by **regular first class mail and registered or certified mail**.  
OR
    - that you could NOT serve by mail because you cannot find the defendant's last known mailing address.)
8. After the Notice has been posted on the legal notice website for 4 weeks, the clerk will complete a certificate of service of posting to the Alaska Court System's legal notice website. The court will put the certificate of service of posting in your case file and send you a copy in the mail.

### How do I know whether to post to the court's legal notice website or use another method?

Choose the method that is most likely to give the other side notice of the case. Posting to the court's legal notice website is free and is the method to use if you do not know if another way that is more likely to notify the other side about the case. But if you think that posting on a social media account, e-mailing, publishing in the newspaper, or posting a paper notice on a bulletin board is more likely to give the other side notice of the case, you can ask the court to serve by that method. Be aware that some methods have costs like publishing in a newspaper's legal notice section.

### What happens after the alternate service is done?

If the defendant does not [answer](#), you may file for [default](#) 30 days after the last day of required publication or posting. If the defendant does answer, your case will move forward as a [contested](#) case the trial judge will set hearings and a trial if needed to resolve the issues in your case.


### What forms do I use for alternate service?

See the Alternate Service Packet, [SHC-PAC2](#).

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7 April 2015  
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4

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA

AT \_\_\_\_\_

vs.

Plaintiff(s),

Defendant(s).

CASE NO. \_\_\_\_\_ CI

**REQUEST TO SERVE DEFENDANT BY  
POSTING AND  
ALTERNATIVE SERVICE,  
AND AFFIDAVIT OF DILIGENT INQUIRY**

**REQUEST**

☐ I request the court's permission to serve defendant (name) \_\_\_\_\_  
under Civil Rule 4(e) by posting on the Alaska Court System's legal notice website.

☐ Additional alternative service:

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

**AFFIDAVIT**

I state the following upon oath or upon affirmation under penalty of perjury:

1. An action has been or is about to be commenced against the defendant.
2. Attempts to Serve Defendant. Attempts to serve the defendant with the summons and complaint were made in the following manner:

☐ Personal service by process server which was returned un-served because (attach return):

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

☐ Certified mail, restricted delivery, return receipt requested, sent on \_\_\_\_\_  
to defendant's last known address: \_\_\_\_\_  
It was returned un-served because (attach envelope):

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

3. Attempts to Locate Defendant. In addition to the above, in order to fulfill my obligation to diligently inquire as to the defendant's whereabouts and to serve the summons on the defendant, I did the following (**check only the boxes that apply**):

- a. ☐ I wrote to and/or questioned defendant's friends and family:

<u>Persons Contacted</u>	<u>Relationship</u>	<u>Results</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. ☐ I wrote to and/or questioned defendant's current and previous employer(s):

<u>Employers Contacted</u>	<u>Results</u>
_____	_____
_____	_____

- c. ☐ I checked telephone directories and Polk city directories (available at the library), and called telephone information as follows:

<u>Directories Checked</u>	<u>Results</u>
_____	_____
_____	_____

- d. ☐ I used a locate-and-research company (such as Accurant, Ingens, Motznik, etc.) to find the defendant:

<u>Companies Contacted</u>	<u>Results</u>
_____	_____
_____	_____

- e. ☐ I conducted people-finder research on the Internet:

<u>Websites Researched</u>	<u>Results</u>
_____	_____
_____	_____
_____	_____

- f. ☐ I checked Facebook and/or other online social networks with these results:

\_\_\_\_\_

- g. ☐ I sent the summons to the defendant by first class mail (not certified) to the following address: \_\_\_\_\_ on (date) \_\_\_\_\_  
with the following results: \_\_\_\_\_  
I enclosed postage sufficient for the return of an answer.

- h. ☐ I inquired of motor vehicle registrars at (cities): \_\_\_\_\_  
with the following results: \_\_\_\_\_

- i. ☐ I called utility companies as follows:

<u>Companies Contacted</u>	<u>City</u>	<u>Results</u>
_____	_____	_____
_____	_____	_____

- j. ☐ I searched property tax listings as follows:

<u>Communities Searched</u>	<u>Results</u>
_____	_____
_____	_____

- k. ☐ I searched the Alaska Court System's trial court records online ([www.courtrecords.alaska.gov/](http://www.courtrecords.alaska.gov/)) to find any cases involving the defendant. Then I went to the courthouse to check the file(s) for a current address and found the following: \_\_\_\_\_

- l. ☐ I searched court records outside of Alaska with the following results:

<u>Location of Courts</u>	<u>Results</u>
_____	_____
_____	_____

- m. ☐ I searched recorded or filed documents at:

- (1) ☐ the Recorders Office of the Alaska Dept. of Natural Resources (<http://dnr.alaska.gov/ssd/recoff/search.cfm>) with the following results: \_\_\_\_\_

- (2) ☐ a recorder's office outside of Alaska, located in \_\_\_\_\_ with the following results: \_\_\_\_\_

- n. ☐ I searched business license information at:

- (1) ☐ the Alaska Division of Corporations, Business, and Professional Licensing (<http://www.commerce.state.ak.us/>) with the following results: \_\_\_\_\_

- (2) ☐ other local and state agencies outside of Alaska with the following results: \_\_\_\_\_

- o. ☐ I believe the defendant may be in the military. Therefore, I contacted the following military locator service(s):

- ☐ Air Force: (210) 565-2660
- ☐ Army: (703) 325-8151 or (866) 771-6357
- ☐ Navy: (866) 827-5672
- ☐ Marines: (703) 784-3942 or (800) 268-3710
- ☐ Coast Guard: <http://www.uscg.mil/locator/>

with the following results: \_\_\_\_\_

p. ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The purpose of my inquiry was to give the defendant notice of the action in order that the defendant may appear and defend it.

5. I believe the following methods of service may be more likely to give the absent party notice (publication in a print or online newspaper, e-mail, posting on the absent party's social network account, physically posting on the front door of an absent party's place of residence, any other appropriate methods):

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

After completing all the inquiries listed above, I do not know the whereabouts of the defendant, and I do not know of any other sources of information through which I can learn the whereabouts of the defendant.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Party or Attorney or Attorney's Agent

\_\_\_\_\_  
Print or Type Name

Subscribed and sworn to or affirmed before me at \_\_\_\_\_, Alaska  
on \_\_\_\_\_,  
(date)

(SEAL)

\_\_\_\_\_  
Clerk of Court, Notary Public, or other  
person authorized to administer oaths/  
My commission expires: \_\_\_\_\_

**ORDER**

It is ordered that:

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

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Clerk / Judge

\_\_\_\_\_  
Type or Print Name

5

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
AT \_\_\_\_\_

In the Matter of the Dissolution  
of the Marriage of

\_\_\_\_\_ and

\_\_\_\_\_  
Party A and Party B.

CASE NO. \_\_\_\_\_

**MOTION AND ORDER FOR  
ALTERNATIVE SERVICE**

MOTION

I, \_\_\_\_\_, hereby request that the court authorize  
(Name of Petitioner)  
the use of an alternate method of notifying my absent spouse, in addition to posting on the  
Alaska Court System's legal notice website, because

\_\_\_\_\_  
Service method requested:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above request is made in order to more likely give notice to my absent spouse.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner

ORDER

IT IS ORDERED that petitioner provide notice to the absent spouse:

☐ in the manner requested above.

☐ by posting on the Alaska Court  
System's legal notice website.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Superior Court Judge

I certify that on \_\_\_\_\_  
I sent a copy of this order to the petitioner.

\_\_\_\_\_  
Type Judge's Name

Clerk: \_\_\_\_\_