

SERVICE BY PUBLICATION

NOTICE

You are first advised to consult an attorney. The information provided in this package is not intended to be legal advice and you should not rely on it as such. The staff of the Circuit Court Clerk's Office and the judicial law clerks are forbidden by law from assisting you by answering legal questions or questions regarding what the law is or what your rights are, etc.

This package is provided as a guide if you should decide to represent yourself before the court in an action requiring service by publication. **You** will be responsible for following the instructions accurately and completely. We take no responsibility beyond making this package available to you, and these examples may not be suitable for every situation.

This example package is **not** to be used as a fill-in-the-blank form. You must type all of your papers in the acceptable format.

David C. Mabie
Clerk of the Circuit Court
Prince William County
Civil Division, Room 314
9311 Lee Avenue
Manassas, Virginia 20110-5598
(703) 792-6029 or 6023

INFORMATION FOR SERVICE BY PUBLICATION

Virginia Code Sections 8.01-316 and 8.01-317; 20-104, 20-104.1 and 20-105.1

You are strongly advised to seek an attorney for this process. We can not make recommendations for specific attorneys, but you can call the Virginia Lawyer's Referral Service at 1-800-552-7977 for referral to an attorney, or Virginia Legal Aid if you feel you can not afford an attorney at (703) 368-5711.

If you do decide to proceed on your own, you will be expected to follow the same rules and procedures as an attorney. **Please do not ask court personnel for legal advice or assistance. We are not attorneys and are, therefore, not permitted to give you legal advice.**

Each document you submit must be typed and **double spaced**, on 8 ½ inch by 11 inch white paper, allowing proper margins in all directions. Each document submitted must contain your name, address, and a day time phone number and you **must sign each document**. Provide information specific to your situation and adapt the documents accordingly. If you submit materials which are not correct in either substance or form, you may be asked to correct and re-submit new copies of your documents. **Each document must be submitted at the proper time.**

Before You Begin

Service by publication is **only** available when you do not know where the defendant is presently located and you have tried to get service by the Sheriff or a private process server, but it has not been possible or successful. You are to make every possible effort to serve the defendant either by the Sheriff or a private process server, and must have proof that you have tried in your file. If you have not done so, you will not be allowed to serve the defendant by publication.

You must file two (2) separate documents with the Court to have service by publication, an Affidavit and an Order. You only need to provide the original documents, no copies are necessary.

Affidavit

A Last Known Address must be given in the Affidavit, even if it is where parties last lived together. If absolutely no known address exists, then the Affidavit must state why. No Order of Publication will be issued by the Clerk unless this condition is met.

The Affidavit must also state, in detail, what steps you have taken to locate the defendant and/or find out the defendant's address. Simply saying that you have "used due diligence" will **not** be enough, and your Order will not be entered. Take all steps possible to locate the Defendant before you file for service by publication.

The Affidavit must be signed by you and signed by a notary public.

Order

The Order must contain the names of the parties, a brief description of why you are bringing suit, and either that the defendant is not a resident of Virginia OR that you have used due diligence to locate the defendant but could not find him/her. An **example** of an order has been provided for your information. *However, this form is only an example; you must change it as necessary for your particular case.*

Publication

Once the Clerk has entered your Order of Publication, the Court will send the Order to the local newspaper of your choice. YOU are responsible for any fees charged by the newspaper.

The Potomac News, Journal Messenger, The Examiner and The Washington Post are newspapers that may be used for legal publication for this Circuit Court. These newspapers charge by the line. You may wish to contact the newspaper in advance concerning their fees and billing procedures. This Circuit Court does not collect their fee. We will forward the signed order to the newspaper and they will bill the Attorney or *pro se* party.

Potomac News 703-878-8040

Journal Messenger 703-368-0156 Ext. 106

The Examiner 703-846-8405

The Washington Post (Prince William Extra) 703-392-1303

CODE SECTIONS

8.01-317	4 consecutive weeks
8.01-321	2 consecutive weeks
64.1-110	2 consecutive weeks

Once the service has run, a proof of publication is sent to the Court to be put in your file and a copy is mailed to you. Service is then complete and your case can move forward.

***** This is a SAMPLE only, not to be used as a form. The information in each paragraph needs to be changed as necessary for your case. This sample is not intended to be legal advice and should not be relied upon as such.

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

)	
)	
_____)	
Complainant)	
)	
v.)	Case No. _____
)	
_____)	
Defendant)	
)	
)	

ORDER OF PUBLICATION

The object of this suit is to [*briefly state why you are filing your case*].

And, it appearing by affidavit filed according to law

[*that the defendant is not a resident of the State of Virginia*]

OR

[*that diligence has been used by the plaintiff to determine in what city or county the defendant is located without success*]

it is therefore ORDERED that the defendant appear on or before the _____ day of _____, 20____, before this Court and do what is necessary to protect his (or her) interests.

And, it is further ORDERED that this order be published once a week for four successive weeks in the [*name of newspaper*], a newspaper of general circulation in the County/City of _____; that a copy of this order be posted at the front door of the courthouse wherein this court is held; and that a copy of this order be mailed to the defendant at the address shown by the aforesaid affidavit.

Entered this _____ day of _____, 20_____.

Clerk of the Circuit Court of Prince William
County

I ask for this:

_____, (signature)

Printed Name
Address
Phone number

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VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

_____)	
Complainant)	
v.)	Case No. _____
_____)	
Defendant)	

AFFIDAVIT FOR SERVICE BY PUBLICATION

Comes now the Complainant, and being duly sworn, upon oath deposes and states that to the best of Complainant’s knowledge, information and belief:

The last known place of abode of the above named Defendant is [*last known address of defendant*]; and

The Defendant is not a member of the Armed Forces of the United States, nor has he/she been such within the past thirty (30) days, nor is he/she a member of the United States Public Health Service; and

[*The Defendant in the above case is not a resident of the Commonwealth of Virginia*]

OR

[that due diligence has been used without effect to ascertain the location of the above named Defendant by taking the following actions: (list actions taken)]

Signature

Subscribed and sworn to before me this ____ day of
_____, 200__.

NOTARY PUBLIC

My Commission expires: _____