

**THIRD JUDICIAL DISTRICT
PRO SE* DIVORCE INSTRUCTIONS
ASKING FOR PERMISSION TO
SERVE PROCESS BY PUBLICATION AND MAIL**

The Idaho Rules of Civil Procedure require a person who is filing a Complaint for Divorce to serve process on the defendant. This means that you have to give notice of the divorce action to your spouse by having copies of the Complaint for Divorce and Summons delivered to your spouse in person. However, if you have made diligent efforts to complete service of process, and have not been able to locate your spouse, you can ask for permission to serve process by publication. These are the steps you must complete to serve process on your spouse by publication. Each step must be completed, and completed properly. If service of process is not completed, or is not properly completed, the judge cannot give you a default divorce decree.

1. You will need to take the following forms to the court clerk's office:

Motion and Affidavit for Service of Process by Publication
Order for Service of Process by Publication and Mail
Summons (Service of Process by Publication)

Fill out the motion and affidavit, and fill out the order (except for the judge's signature). The forms must be typed, not handwritten. The court clerk will not accept documents that are handwritten.

Please note that the summons for service of process by publication is different than the summons for service by delivery in person that was included in your divorce packet. The summons for service of process by publication includes a statement of the nature of the plaintiff's claim, because your Complaint for Divorce is not published along with the summons.

2. Sign the motion and affidavit in front of a notary public. After you sign it, the notary public will sign it and seal it. Make one copy of the completed motion and affidavit, the order, and the summons. Prepare a self-addressed, stamped envelope.
3. Take the originals, the copies, and the envelope to the court clerk. Ask the court clerk to file the original Motion and Affidavit, and to conform the copy. The court clerk will keep the original, and give the copy back to you. You should keep the copy for your records. Give the court clerk the original order, the copy of the order, and the summons for service of process by publication, and a copy of the summons.
4. The court clerk will give your motion and order to the judge. The judge will do one of three things.

* *Pro se* refers to a person who is representing him or herself in court without an attorney.

a. The judge may decide that your motion does not show that you made diligent efforts to serve process on your spouse personally, and deny your motion. If the judge denies your motion, you will have to make further efforts to serve process on your spouse personally.

b. The judge may decide that your motion does show that you made diligent efforts to serve process on your spouse personally, grant your motion, and sign the order. The court clerk will conform a copy of the order, will mail you a copy of the order and a summons for service of process by publication. Keep the copy of the order for your records.

c. The judge may schedule your motion for a hearing. If the judge schedules your motion for a hearing, the court clerk will mail you a notice of the date and time for your hearing. You must come to court for the hearing. At the hearing, the judge will ask you questions about the efforts you made to serve process on your spouse personally, the newspaper most likely to give your spouse notice of your divorce case, and your defendant's last known address. If the judge decides that you did not make diligent efforts to serve process on the defendant personally, the judge will deny your motion, and you will have to make further efforts to serve process on your spouse personally. If the judge decides that you did make diligent efforts, the judge will grant the motion and sign the order. The court clerk will conform a copy of the order. The court clerk will give you the conformed copy of the order and the summons for service of process by publication. The court clerk will either hand it to you at the hearing, or mail it to you after the hearing. Keep the copy of the order for your records.

5. After the judge signs the order, you must make arrangements to have the summons for service of process by publication published in the newspaper as stated in the order. You must also mail a copy of the Complaint for Divorce, the Summons (the summons for service by delivery in person that was included in your divorce packet), and the Joint Preliminary Injunction, as stated in the order.

6. After the Summons is published, the newspaper will give you an Affidavit of Publication. You should also ask for a copy of the affidavit. File the original Affidavit of Publication with the court clerk. You should ask the court clerk to conform your copy, and keep it for your records.

7. After you mail the copies to your spouse's address, complete the form for Affidavit of Service by Mail. Sign the affidavit in front of a notary public. After you sign it, the notary public will sign it and seal it. Make one copy of the completed affidavit. Take the original and the copy to the court clerk. Ask the court clerk to file the original, and to conform the copy. The court clerk will keep the original, and give the copy back to you. You should keep the copy for your records.