

Alternative Form of Service

Instructions for Packet 6A

This packet is for a person who has filed a petition for divorce, separation, custody or parenting time (visitation), and cannot complete service by the usual methods, including:

- personal service (having the papers delivered directly to respondent),
- substitute service (delivery of papers to a person living at respondent's home who is at least 14 years old, and mailing of documents to home address),
- office service (delivery of papers to the person apparently in charge at respondent's office during working hours), and
- service by mail (delivery to respondent by first class mail and by certified, registered or express mail provided respondent signs a receipt for the certified, registered or express mail. The respondent must not be a minor or incapacitated).

The law requires that you try to locate respondent through all possible methods before an alternative method of service is allowed. This may include contacting respondent's employer, friends and relatives, public utilities, the post office, and any other entity or person that might know of respondent's whereabouts.

These forms allow you to request permission from the Court to use one of the following methods of service: publication, posting, or mailing to a specified post office address.

STEP 1

- Fill out the Affidavit in Support of Motion for Alternative Form of Service (AFFIDAVIT) and Motion for Order to Allow an Alternative Form of Service (MOTION).
- Fill out the case heading on the Order Regarding Request for Alternative Form of Service (ORDER).
- Fill out the Certificate of Document Preparation (CERTIFICATE).
- Make two copies of the MOTION, ORDER AND AFFIDAVIT. One is for your records and the other is to send to the respondent.

STEP 2

- File the original AFFIDAVIT, MOTION, ORDER and CERTIFICATE with the court clerk.
- Send true copies (copies that you have signed where it says, "I certify this is a true copy") of the originals to the respondent if you have a mailing address for that person.

STEP 3

Check back in a week to 10 days to see if the ORDER was signed by a judge, and if so, what method of service the judge has allowed you to use (if any).

STEP 4

- If an alternative method was allowed in the ORDER, follow the instructions in the ORDER to complete service.
- To serve by publication, you must fill out the Summons in this packet completely. Then you must publish BOTH the Summons and the “Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Cases” in the newspaper specified in the ORDER. You must also mail a copy of the summons, notice of statutory restraining order, and petition to the respondent if you know his or her post office box number or can find out what the post office box number is with reasonable diligence. If you can’t find out the post office box number by exercising reasonable diligence, you may mail the documents to the respondent’s last known address. If you can’t find out the last known address using reasonable diligence, you don’t have to mail the documents.
- To serve by mail, send the summons, notice of statutory restraining order, and petition by first class mail **and** by any of the following: certified or registered mail, return receipt requested, or express mail.
- To serve by posting, you must have someone other than yourself post the Summons, Notice of Statutory Restraining Order, and Petition at the location indicated by the court. The person who posts these papers must be 18 years of age or older and an Oregon resident, who is not a party, nor an attorney for any party, in your proceeding.

STEP 5

Once service is complete, file a proof of service with the court. You may do this by filing the Affidavit of Service if service was completed by posting or mailing. If service was completed by publication, submit the Affidavit of Publication and the Certificate of Mailing (if you are able to mail; see Step 4).

STEP 6

Wait until the period for the respondent to file a response has passed. If you don’t receive a copy of a response in the mail, check with the court clerk to see if one was filed. If no response was filed, you may file your request for a default according to the instructions in the packet you used to file your petition.

[Attach to Summons per ORS 107.093(5)]

**NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS
IN DOMESTIC RELATIONS ACTIONS**

REVIEW THIS NOTICE CAREFULLY. BOTH PARTIES MUST OBEY EACH PROVISION OF THIS ORDER TO AVOID VIOLATION OF THE LAW. YOU HAVE THE RIGHT TO A HEARING. SEE INFORMATION BELOW.

TO THE PETITIONER AND RESPONDENT:

Under ORS 107.093 and UTCR 8.080, Petitioner and Respondent must not:

Insurance Policies

(1) Cancel, modify, terminate or allow to lapse for nonpayment of premiums any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.

Insurance Beneficiaries

(2) Change beneficiaries or covered parties under any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.

Property

(3) Transfer, encumber (*i.e., mortgage, lien, borrow against*), conceal, or dispose of property in which the other party has an interest, in any manner, without written consent of the other party or an order of the court, except in the usual course of business or for necessities of life.

Expenses

(4) Make extraordinary expenditures without providing written notice and an accounting of the extraordinary expenditures to the other party.

EXCEPTIONS:

Paragraphs (3) and (4) do not apply to payment by either party of:

- (a) Attorney fees in this action;
- (b) Real estate and income taxes;
- (c) Mental health therapy expenses for either party or a minor child of the parties; or
- (d) Expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.

EFFECTIVE DATE:

The above provisions are in effect immediately upon service of the *Petition* and *Summons* on the respondent. They remain in effect until a final judgment is issued, until the petition is dismissed, or until further order of the court.

RIGHT TO REQUEST A HEARING

Either Petitioner or Respondent may request a hearing to modify or terminate one or more terms of this restraining order, by filing with the court the *Request for Hearing re: Statutory Restraining Order* form specified in Form 8.080.3 in the UTCR Appendix of Forms.

[Attach to Summons per ORS 109.103(5)]

**NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS
IN DOMESTIC RELATIONS ACTIONS BETWEEN UNMARRIED PARENTS**

REVIEW THIS NOTICE CAREFULLY. BOTH PARTIES MUST OBEY EACH PROVISION OF THIS ORDER TO AVOID VIOLATION OF THE LAW. SEE INFORMATION ON YOUR RIGHT TO A HEARING BELOW.

TO THE PETITIONER AND RESPONDENT:

Under ORS 109.103(5) and UTCR 8.080, Petitioner and Respondent must not:

Insurance Policies

(1) Cancel, modify, terminate or allow to lapse for nonpayment of premiums any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.

Insurance Beneficiaries

(2) Change beneficiaries or covered parties under any policy of health insurance that one party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

EFFECTIVE DATE:

The above provisions are in effect immediately upon service of the *Petition* and *Summons* on the respondent. They remain in effect until a final judgment is issued, until the petition is dismissed, or until further order of the court.

RIGHT TO REQUEST A HEARING

Either Petitioner or Respondent may request a hearing to modify or revoke one or more terms of this restraining order, by filing with the court the *Request for Hearing re: Statutory Restraining Order* form specified in Form 8.080.3 in the UTCR Appendix of Forms.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of the Marriage of:)
)
_____,) Case No. _____
)
Petitioner,)
and)
) MOTION FOR ORDER TO ALLOW
) AN ALTERNATIVE FORM OF
_____,) SERVICE
)
Respondent.)

Motion

I, _____, request that the court issue an Order allowing service by publication, mailing or posting based on unsuccessful attempts to locate and serve the other party detailed in the attached affidavit. If the court orders service by publication, I request that I be allowed to publish notice in _____, a newspaper of general circulation in _____ County.

Points and Authorities

ORCP 7D(6)(a) allows the court to order service by any method or combination of methods which under the circumstances is most reasonably calculated to apprise the party of the existence and pendency of the action, upon a showing that service cannot be made by any method otherwise specified by law.

Dated: _____, 20_____.

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
 I paid or will pay money to _____ for assistance in preparing this form.

Petitioner, Signature

Petitioner, Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

I certify that this is a true copy. _____
Petitioner, Signature

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of the Marriage of:)
)
_____))
) Petitioner,)
) and)
_____))
) Respondent.)

Case No. _____

AFFIDAVIT IN SUPPORT OF
MOTION FOR ALTERNATIVE
FORM OF SERVICE

STATE OF _____)
) ss.
County of _____)

I, _____, being first duly sworn, say that the following is true:

1. I am the petitioner in this case.
2. I have had no contact with the respondent since (date)_____. His/Her last known address is _____, and I am not presently aware of his/her whereabouts, mailing address or how to get in contact with him/her.
3. I attempted to have the respondent personally served at his or her dwelling house or usual place of abode located at _____
Service at this address has not been successful because _____

4. I attempted to complete substitute service on respondent but was unsuccessful because: _____

5. Check one: I attempted to complete office service on respondent but was unsuccessful because: _____

- The respondent does not have an office for the conduct of business.
6. I attempted to mail the documents to respondent at the following address(es): _____
_____ by first
class mail and certified or registered mail, return receipt requested, or express mail, but was not
able to get a receipt signed by Respondent because: _____

7. I have have not found a post office address for the respondent. I have made the following efforts to locate a post office address: _____

8. In addition to the methods described above, I have tried to locate the other party using the following methods: *(Describe methods, list dates they were used, and explain why efforts to locate through utility company records, driving records, postal records, family members, friends and any other reasonable means has not been successful. Attach additional pages if necessary.)*: _____

9. **Check one:** I know of a specific location outside of *(List county of filing)* _____
 County where publication might reasonably result in actual notice to the respondent. *(List county and state.)*: _____
 I do not know of a specific location where publication might result in actual notice to the respondent.
10. I am without funds to pay for publication by newspaper. A copy of the order deferring or waiving my filing fee is attached.

Dated: _____, 20____.

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
 I paid or will pay money to _____ for assistance in preparing this form.

 Petitioner, Signature

 Petitioner, Print Name

 Address or Contact Address

 City, State, Zip

 Telephone or Contact Telephone

SIGNED AND SWORN to before me this _____ day of _____, 20____, by _____

 Notary Public for _____/Court Clerk

My Commission Expires: _____

I certify that this is a true copy.

 Petitioner, Signature

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document form myself, and I completed it without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this form.

Signature of Server

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

SIGNED AND SWORN to before me this _____ day of _____, 20____,
by _____.

Notary Public for _____/Court Clerk

My Commission Expires: _____

