

PROCEDURE FOR MOTION AND ORDER FOR SERVICE BY PUBLICATION

1. There are several options available to complete service upon the other party in a case pursuant to New Mexico Rules Annotated, Section 1-004. Every effort must be made to serve the other party. If the whereabouts of a party is unknown, service by publication may need to be requested from the Court. The Judge may schedule a hearing regarding this matter. The following documents should be submitted to the Court when making this request:

- a. Verified Motion for Service by Publication*
- b. Order for Service of Process by Publication in a Newspaper*
- c. Notice of Pendency of Action*
- d. Affidavit of Publication (please refer to step #5 of this procedure to determine when this form is required)*

NOTE: The *Verified Motion for Service by Publication* must be signed in front of a Notary Public.

2. You must get the judge's approval for service by publication. Attach a copy of the petition or other pleading to the *Verified Motion for Service by Publication*. Submit the *Verified Motion*, along with the *Order for Service of Process by Publication in a Newspaper*, and the *Notice of Pendency of Action* to the Domestic Relations Division. They are located in room 119 on the First Floor and open between the hours of 8:00 a.m. - 4:00 p.m., Monday through Friday. The forms will then be forwarded to the judge's office for review.

NOTE: It is up to you to read each form carefully and fill them out completely. The paralegals' in the Center for Self Help and Dispute Resolution cannot assist you in filling out any of your forms.

3. Return to Domestic Relations after five (5) business days to check on whether the judge approved your *Verified Motion for Service by Publication* and the *Order for Service of Process by Publication in a Newspaper*. If the Order is signed by the judge, the clerk in the Domestic Relations Division will file the original Motion and Order. The *Notice of Pendency of Action* will then be issued and filed by the clerk so that you can publish.

4. Go to the Albuquerque Journal located at 7777 Jefferson NE between the hours of 8:00 a.m.- 5:00 p.m. and take an endorsed copy of the *Notice of Pendency of Action*. The newspaper will publish the Notice one day a week for three consecutive weeks. The Journal will bill you an approximate amount of \$100.00 when they send you proof that the *Notice of Pendency of Action* was published. If you prefer, you can call and make arrangements to fax or mail an endorsed copy of the Notice to the Journal.

NOTE: If the judge orders that a newspaper in another county is most likely to provide notice, you might call ahead to inquire about that newspaper's publication procedure and cost.

5. Once the paper sends you an Affidavit of Publication with proof that the Notice was published, you must attach it to the cover page labeled ***Affidavit of Publication*** (provided in this packet), and file the original and bring two (2) copies to *Domestic Relations Division*.

NOTE: The Notice and Affidavit of Publication state the deadline for the Respondent to file a Response to your Petition. If the Respondent does not respond by the date mentioned in the Notice of Pendency of Action and Affidavit of Publication, you can then file for a Default Judgment by completing the final steps below.

6. DEFAULT JUDGMENTS:

a. FOR DIVORCE CASES

- **To apply for a Default Judgment which orders your divorce on the basis that the other party did not file any response, you must return to the Center for Self Help and Dispute Resolution to purchase a Default Packet. The price varies from \$10.00 to \$20.00 depending on whether or not there are children involved. Another option would be to download the forms from our website at: www.seconddistrictcourt.nmcourts.gov**

b. FOR PARENTAGE/CUSTODY CASES

- **To apply for a Default Judgment which orders custody on the basis that the other party did not file any response, we ask that you return to the Center for Self Help and Dispute Resolution and speak to a paralegal. A Motion for Default and a Request for Hearing must be filed along with additional forms. A paralegal can provide all the required forms and go over the process if necessary. There is no charge for these forms.**

Remember, it is up to you to fill out all of the forms. The paralegals' in the Center for Self Help and Dispute Resolution can only review your forms to ensure that they are filled out completely and correctly. Please feel free to visit our office as often as necessary or call us at 505-841-6702 with your questions or concerns.