

## *Procedure for Filing a Contested Custody Case*

1. Prepare a *Petition to Establish Parentage, Determine Custody and Time-Sharing, and Assess Child Support* and a *Summons*. Prepare an original set of documents plus two (2) sets of copies of each form. Documents which number more than one page must be stapled separately. Sort the documents according to title, place the original on top of its copy and then paper clip them together. For example: Place the original *Petition* on top of the stapled copies and then paper clip them together. Repeat the same for the *Summons*. In addition, the Court requires a completed *Domestic Relations Information Sheet* at the time of filing.

2. Submit your documents for filing to the Domestic Relations Division, Room 119, first floor, of the Bernalillo County Courthouse, at 400 Lomas Blvd. NW between the hours of 8:00 A.M. - 4:00 P.M., Monday through Friday. There is a required filing fee of \$137.00. Cash, money order, or cashier's check are acceptable forms of payments. Personal checks and credit cards are not accepted.

3. When you file your documents, the case will be randomly assigned a judge through the computer and given a case number. The clerk will file the original *Petition* and endorse stamp the copies. The original *Summons* is issued by the Clerk. Once the initial filing process is complete, it is your responsibility to have the Respondent served. This can be accomplished by having a person over the age of 18 who is not a party to this action, serve the documents. A private process server (listed in the Yellow Pages of a telephone directory) or the Sheriff's Department (closest to the county where the Respondent resides) can be contacted for this purpose.

The Respondent must be served with the following documents:

- a. ENDORSED copy of the *Petition*
- b. COPY of the *Summons*

4. After the Respondent has been served, the process server or Deputy Sheriff will complete the reverse side of the original *Summons (a Return of Service)*. The Sheriff's Department will return this document to you by mail. If you obtain the services of a private process server, you can ask for the *Return of Service* to be returned to you. **It is IMPORTANT to file the completed return of service because it shows proof that the Respondent was served.**

5. The Respondent has thirty (30) days after service to file a *Response* to the Court. (He or she has until 4:00 P.M. on the 30<sup>th</sup> day to respond.) If the Respondent fails to file a response, you may be able to obtain a judgment by default by submitting additional documents to the court for filing.

**SERVICE OF PROCESS**  
***(GIVING THE OTHER PARTY LEGAL NOTICE)***

**ASSEMBLING A SUMMONS PACKET**

Means putting together the following:

- a. copy of the original Summons
- b. copy of the Petition for Dissolution of Marriage
- c. copy of the Temporary Domestic Order and a blank copy of the Domestic Relations Information Sheet

**ARRANGING FOR SERVICE**

Means method of service that you will use to notify the other party:

**PERSONAL SERVICE BY USING ONE OF THESE:**

- a. SHERIFF/LAW ENFORCEMENT (must be from the County where Respondent lives in)
- b. PROCESS SERVER (may see yellow pages, internet and/or Self Help Center for a list of these)
- c. PERSON OVER 18 YRS. OF AGE WHO IS NOT A PARTY TO THE CASE

OR

**MAIL**

It must be mailed to a good address by using a mailing method where Respondent will sign for receiving the Summons Packet and you having proof to present to the court. Example: Certified Mail with Return Receipt.

OR

**NEWSPAPER**

Publishing a Legal Notice in a Newspaper: This method of service is used when you have made all of the attempts possible to locate the Respondent and whereabouts are unknown. Before publishing you must ask the Court for permission to do this (you may return to the Center for Self Help and Dispute Resolution for proper forms and procedural information).

**FILING PROOF OF SERVICE**

***Means proving to the court that the other party was given notice of the legal proceeding properly!***

To do this you must file either the original Summons and completed Return of Service that was issued by the Clerk (second page of the Summons), Affidavit of Service (mail) and/or Affidavit of Publication. What you submit will depend on the method of service that you used to serve the other party. You must file in the Domestic Relations Clerks Office, Room 240, 2<sup>nd</sup> floor of the Second Judicial District

Court. **NOTE: IF PERSONAL SERVICE WAS PERFORMED BY A PRIVATE PERSON, A SHERIFF, OR A PROCESS SERVER, THE PERSON WHO SERVED THE RESPONDENT MUST SIGN THE RETURN OF SERVICE. YOU MUST RETURN THE SIGNED RETURN OF SERVICE TO THE COURT AND FILE IT.**

**NOTE: You must always follow the Rules of Civil Procedure. Service of Process is a requirement that must be completed in order to move forward with finalizing your case. For additional information governing Service of Process you can refer back to NMRA, Rule 1-004 and/or visit the Second Judicial District Court, Center for Self Help and Dispute Resolution, in room 119, 1<sup>st</sup> floor, for proper forms and further instruction.**