

Filing Divorce With Children Service by Publication

You must notify your spouse that you have filed a Petition for Divorce. If you cannot provide notice of the divorce to your spouse through (a) a voluntary entry of appearance, (b) service through the sheriff's department, or (c) certified mail service, then you may be able to provide notice of the divorce by publishing notice in a local newspaper.

In order to obtain "publication service," you must request permission to do so by filing the "Affidavit for Service by Publication," and obtaining an order from the assigned judge allowing you to publish notice. After you obtain the signed "Order Allowing Service by Publication", you must then publish notice following the process set out in K.S.A. 60-307. You must obtain "proof of publication" from the newspaper and file the proof with the court.

Court personnel cannot help you with this process.

This packet contains the following documents:

1. Affidavit for Service by Publication
2. Order Allowing Service by Publication
3. The Language in K.S.A. 60-307 regarding *Service by Publication*
4. List of Johnson County publications

If you have reviewed the documents in this packet and have additional questions about notifying your spouse of your divorce filing through publication, you should talk to an attorney.

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of the Marriage of

(Name of Spouse Filing)
and

Case No. _____

(Name of Other Spouse)

AFFIDAVIT FOR SERVICE BY PUBLICATION

Having been properly sworn by a notary public, I state the following for my affidavit:

1. I am the person who filed the divorce petition in this matter.
2. I make this affidavit so that I can obtain an order allowing me to obtain publication service of the divorce petition upon my spouse under K.S.A. 60-307.

3. I seek an order for publication service upon my spouse because I do not know where my spouse is currently living even though I have asked people who know my spouse, even though I have searched through documents in my possession, even though I have diligently searched telephone listings in the places I believe my spouse may now live, and even though I have diligently searched publicly available internet resources for information about where my spouse may now live.

4. The last address at which my spouse lived was:

5. I have tried unsuccessfully to serve my spouse by certified mail and personal service with the divorce petition and summons.

6. This divorce action is one of the actions mentioned in subsections (a)(1) through (4) of K.S.A. 60-307, and amendments thereto, and allows notice by publication under these circumstances.

Name (Print): _____
Address 1: _____
Address 2: _____
City, State, Zip: _____
Telephone Number: _____
FILING SPOUSE

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of the Marriage of

(Name of Spouse Filing)
and

Case No. _____

(Name of Other Spouse)

NOTICE OF SUIT

The State of Kansas to _____ (Name of non-filing spouse):

You are notified that a Petition for Divorce was filed in the District Court of _____ County, Kansas asking that the person filing the divorce be granted a divorce and asking that the court make other orders in that divorce matter. You must file an answer to the Petition for Divorce with the court and provide a copy to the filing spouse on or before _____, 20____, which shall not be less than 41 days after first publication of this Notice of Suit, or the court will enter judgment against you on that Petition.

Filing Spouse (Print): _____
Address: _____
Address: _____
City, State, Zip: _____
Telephone: _____

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of the Marriage of

(Name of Spouse Filing)

Case No. _____

and

(Name of Other Spouse)

ORDER ALLOWING SERVICE BY PUBLICATION

The Court finds:

1. The Filing Spouse filed an Affidavit seeking publication service upon the Non-filing Spouse.
2. After inquiry of the Filing Spouse, it appears to the Court that the Filing Spouse does not now know where the non-filing spouse lives, it appears that the Filing Spouse has made reasonable efforts to find out where the non-filing spouse is living but has not been able to find out that information, and it appears that the Filing Spouse has done all reasonably necessary to try to find out where the Non-Filing Spouse is living.
3. The Filing Spouse is allowed to give notice to the Non-Filing Spouse of the filing of the Divorce Petition by publication service as is provided by K.S.A. 60-307.

IT IS SO ORDERED.

Judge of the District Court

Submitted by:

Filing Spouse (Print):

Address:

Address:

City, State, Zip:

Telephone:

2012 Kansas Statutes

60-307. Service by publication. (a) *When permissible.* Service may be made by publication in any of the following cases:

(1) In an action to obtain a divorce, maintenance or an annulment of a marriage if the defendant resides outside this state or if the party with due diligence is unable to serve summons on the defendant within this state;

(2) in an action brought against a person who is a nonresident of this state or a foreign corporation having in this state property or debts owing to the person or foreign corporation sought to be taken by a provisional remedy or to be appropriated in any way;

(3) in an action, in which the defendant is a nonresident of this state or a foreign corporation or if the party with due diligence is unable to serve summons on the defendant in this state:

(A) Which relates to or the subject of which is real or personal property in this state, if any defendant has or claims a lien or interest, vested or contingent, in the property;

(B) in which the relief demanded consists wholly or partly in excluding the defendant from any interest in the property;

(C) for partition; or

(D) for foreclosure of a lien;

(4) in an action in which the defendant, being a resident of this state, has departed from this state or from the county of the defendant's residence with the intent to delay or defraud creditors or to avoid the service of a summons, or hides in the state or county with that intent, or in an action against a domestic corporation that has not been legally dissolved, if the officers of the corporation have departed from this state or cannot be found; and

(5) in an action specified in this subsection, on any of the following who are made defendants:

(A) Unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of a person alleged to be deceased;

(B) unknown spouse of a defendant;

(C) unknown officers, successors, trustees, creditor [creditors] and assigns of a defendant that is an existing, dissolved or dormant corporation;

(D) unknown executors, administrators, devisees, trustees, creditors, successors and assigns of a defendant that is or was in partnership; and

(E) unknown guardians, conservators and trustees of a defendant that is a minor or is under any legal disability.

(b) *Construction and effect.* The provisions of this section are separate and permissive methods of obtaining service. If a defendant served under this section does not appear, judgment may be rendered affecting the property, res or status within the jurisdiction of the court as to the defendant, but judgment may not be rendered against the defendant personally.

(c) *Affidavit or declaration for service by publication.* Before service by publication under this section can be made, a party or the party's attorney must file an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, stating all of the following facts that apply:

(1) The residences of all named defendants sought to be served, if known, and the names of all defendants whose residences are unknown after reasonable effort to ascertain them and the specific efforts made to ascertain the residence;

(2) the affiant or declarant has made a reasonable but unsuccessful effort to ascertain the names and residence of any defendants sought to be served as unknown parties under subsection (a)(5) and the specific efforts made to ascertain the names and residences;

(3) the party seeking service by publication is unable to obtain service of summons on the defendants in this state; and

(4) the case is one of those mentioned in subsections (a)(1) through (a)(4).

The form of the affidavit or declaration is sufficient if in substantial compliance with the form set forth by the judicial council. When the affidavit or declaration is filed, service may proceed by publication.

(d) *Publication; contents and form of notice; actions involving property.* (1) *Where to publish notice.* The notice must be published once a week for three consecutive weeks in a newspaper published in the county where the petition is filed and that is authorized by law to publish legal notices. If there is no newspaper published in the county, the notice may be published in a newspaper having general circulation in the county.

(2) *Contents of notice.* The notice must name any defendant to be served and notify the defendant and all other persons who are or may be concerned that:

(A) The defendant has been sued in a named court;

(B) the defendant must answer the petition or other pleading or otherwise defend, on or before a specified date not less than 41 days after the date the notice is first published; and

(C) if the defendant does not answer or otherwise defend, the petition or other pleading will be taken as true, and judgment, the nature of which must be stated, will be rendered accordingly.

(3) *Form of notice.* The notice is sufficient if in substantial compliance with the form set forth by the judicial council.

(4) *Property description.* When the action affects property, the notice need not expressly describe the property unless the description is otherwise required by law, but the property may be identified by reference to the pleading.

(e) *Mailing copy of notice.* The party seeking service by publication must, within seven days after the first publication, mail a copy of the publication notice to each defendant whose address is stated in the affidavit or declaration for service by publication.

(f) *When service complete.* Service by publication is complete when it has been made in the manner and for the time prescribed in subsections (d) and (e). The service must be proved under subsection (c) of K.S.A. 60-312, and amendments thereto. No judgment by default may be entered on the service until proof of service is made, approved by the court and filed.

History: L. 1963, ch. 303, 60-307; L. 1965, ch. 355, § 1; L. 1970, ch. 232, § 2; L. 1982, ch. 152, § 22; L. 1990, ch. 202, § 8; L. 1994, ch. 68, § 3; L. 2005, ch. 101, § 11; L. 2010, ch. 135, § 152; July 1.

PUBLICATIONS

KC STAR (Olathe Daily News-moved here)

(816) 234-4035 Nancy Yeager

1729 Grand Blvd

Kansas City, MO 64108

Go to SW corner of bld-17th & McGee look for sign KC Star advertising

Specify which paper you want to publication to go in.

Business hours: 9 am to 3 pm

Deadlines: Noon Friday for Wednesday publication.

 Noon Wednesday for Saturday publication.

Olathe-41 cents per line

KC Star-6.20 per line

THE JOHNSON COUNTY SUN (SUN PUBLICATIONS)

4370 W 109th St Suite 210

OVERLAND PARK, KANSAS 66211

(913) 385-6041 Jenny Lusk jennylusk@nngo.com

Business hours: 8am to 5pm

Deadline: 10:00 am Monday for Wednesday publication.

This will run around \$175.00 for 3 weeks

THE LEGAL RECORD

1701 E Cedar Suite 111

OLATHE, KANSAS 66061

(913) 780-5790

Business hours: 8am to 5pm

Deadline: Friday at 4:00 pm for Tuesday publication.

This will run around \$160-\$220 for 3 weeks

Go on line for template

**Do you need to publish
a public notice?**

These newspapers specialize in providing attorneys with the best in Service, Accuracy and Economy!

IN SEDGWICK COUNTY

The Sedgwick County Post

Published Every Tuesday

(316) 691-8553 • Fax: (316) 691-8619

E-mail: notice@thesedgwickcountypost.com
400 N. Woodlawn, Ste. 10, Wichita, KS 67208

IN SHAWNEE COUNTY

The Topeka Metro News

Published Every Monday

(785) 232-8600 • Fax: (785) 235-8707

E-mail: legal@topekametronews.com

P.O. Box 1794, Topeka, KS 66601-1794

IN WYANDOTTE COUNTY

Wyandotte County Business News

Published Every Monday

(913) 422-8232 • Fax: (913) 422-1359

E-mail: notice@wyandottecountylegalnews.com

P.O. Box 13235, Kansas City, KS 66113

IN JOHNSON COUNTY

The Legal Record

Published Every Tuesday

(913) 780-5790 • Fax: (913) 780-5747

E-mail: notice@thelegalrecord.net

P.O. Box 273, Olathe, KS 66051-0273