

## What you need to know about SERVICE

Tacoma-Pierce County  
Coordinated Family Law Project



## What is Service?

- When you file a case in Superior Court, you must **serve** the papers you filed with the court on the other party (the respondent). These papers will include a summons and a petition or complaint.
- **Service** is giving the other party **notice** that you have filed an action against them. Service must be done in such a way that the court knows for sure that the other party has been notified, or **your action cannot proceed to the next step.**

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## What is Personal Service?

- **Personal Service is always the best.**
- If personal service is done, you can prove, and the court knows for sure, that the other party has been given notice of the proceedings.
- Personal service **cannot be done by you!**
- Personal service should be done by someone who has no interest in the case and is not a party to the case.

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## Why is Personal Service so Important?

- It is possible that issues, disputes or challenges regarding notice to the other party may come up at a later time in your case.
- If this happens, you are much less likely to be challenged if you used personal service to notify the other party when you filed your case.

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## How is Personal Service Done?

- Have someone over the age of 18 **deliver the papers directly to the other party** (this can occur at the other party's residence or any other location where the other party can be contacted personally); **OR**
- Have someone over the age of 18 **deliver the papers to the other party's residence and leave them with a person of suitable age who lives on the premises and understands that the papers must be given to the other party.** 'Suitable age' is defined differently by the courts; the person doing the service should use common sense in assessing whether the person with whom they leave the papers is responsible and capable of understanding the importance of delivering them to the respondent.
- A child in common to the parties in the action is not a suitable person to perform service or accept service.
- If you do not know a reliable person over 18 unrelated to the action who can perform personal service, one of the very best options is to contact the County Sheriff to perform the service. The cost is usually reasonable, and you and the court will know for sure that the other party has been served properly.

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## Does Every Form I Filed Need to be Served on the Other Party?

- Generally, a copy of ANYTHING you put into your court file must ALWAYS be served on the other party.....HOWEVER,
- If any of the following forms are included in the papers you filed when you started your case, you do **not** need to serve them on the other party.
  - Confidential Information Form
  - Vital Statistics Form
  - In Forma Pauperis
  - Case Cover Sheet

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## What is the Return of Service, who signs it and what do I do with it?

- After you have someone personally give the other party copies of the forms you have filed, that person must fill out a **Return of Service which must include a list of all documents served, the address at which they were served and how the other party was served.**
- **As soon as that person has filled out the Return of Service, TAKE IT TO THE COURT CLERK'S OFFICE AND FILE IT!** (Make sure to keep a copy for yourself as well.)

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## Are there other ways to prove personal service?

As an alternative to filing the Return of Service, the court will accept that the other party has been served if one of the following methods is used:

- **Acceptance of Service:** This is a form that you should include with the other papers served. If the other party signs it and it is filed with the court, the required service has been accomplished.
- **Joinder:** If the other party agrees with your Petition and signs either the last page of the Petition or a separate 'Joinder' form, the required service has been accomplished.

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## What is Service by Mail?

- If you have difficulty locating the other party or the other party is avoiding personal service, the court may allow you to serve the other party by mail. **Service by Mail** requires you to make a motion for an order from the court allowing you to serve by mail.
- This order will only be given to you if you can show the court that you have made "**reasonable efforts**" to locate and personally serve the other party, that personal service will cause undue hardship, or that the other party is avoiding service.
- Your reasonable efforts must be **written down in your declaration attached to the motion to serve by mail**, and may include calling friends, relatives, co-workers and employers, checking the phone book and the Internet.

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## Wait - some things to remember before choosing service by mail.

- Although it may seem more convenient, service by mail is **not** automatically the best way to serve the other party if they live outside the county or out of state. It is **much better** to do personal service even if the other party lives on the other side of the country, and even if you have to go to some effort to locate them!
- **The best option** for serving an out-of-county or out-of-state respondent is to **contact the Sheriff in the county where the other party resides and have them personally serve the papers for you.**
- When you serve by mail the other party has **90 days** to respond, which will delay resolution of your case.
- **Child support cannot be ordered against a parent who lives in another state and is served by mail.** Again, if your case may involve child support, you should make every attempt to locate your spouse and have them personally served by the Sheriff in that county.

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## How Do I Get an Order to Serve by Mail?

- Prepare the following forms to take to the Commissioner for review:
  - **Motion and Declaration to Serve by Mail**
  - **Order Allowing Service by Mail**
  - **Summons by Mail**
  - **Petition**
  - **Proposed Parenting Plan and any related documents**
- After your papers are filled out, go to Room 107 between 9-11 a.m. or 1:30-3:30 p.m. to have your order signed by the Commissioner. Get in line, and be sure you have your papers organized and ready for the Commissioner.
- The Commissioner will ask you some questions about why you need to serve the other party by mail. You should be prepared to clearly state the reasons as written in your declaration.
- If appropriate, the Commissioner will sign the Order Allowing Service by Mail.

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## I've got the order, now how should I prepare to serve by mail?

- **Follow the instructions** on the Order Allowing Service by Mail.
- Remember to use a **Summons by Mail** which is different from the regular summons.
- **Find a friend or relative** to do the mailing – you may not mail the papers yourself.
- **Prepare two sets of copies** for mailing, one copy **CERTIFIED MAIL** and one copy **REGULAR MAIL**.

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### ***How do I prepare to serve by mail to a relative of the other party?***

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- If you are not sure exactly where the other party is living but have been granted an order allowing service by mail to a relative of the other party for delivery to the respondent, you must do the following:
  - Make **4 copies** of the papers you need to serve (1 copy for the other party, certified mail; 1 copy for the other party, regular mail; 1 copy for the relative, certified mail; 1 copy for the relative, regular mail). You will mail both sets of papers, one regular mail and one certified.
  - Include a **letter** to the relative in each mailing, asking them to deliver the papers to the other party.

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### ***How do I complete service by mail?***

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- Make sure your **return address** is on **both** the certified and regular mail envelopes.
- Remember to have someone else go to the post office for you or along with you to do the mailing – the person doing the mailing **should not be you**.
- The person doing the mailing will get a receipt at the counter when they pay for the mailing. It is a good idea to keep this receipt in a safe place and make a copy of it because you may need to use it as proof of mailing.

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### ***What do I file with the court as proof of service by mail?***

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- **When the other party signs for the certified letter, a signed green postcard will be mailed back to you by the post office.**
- As soon as you receive the signed green postcard, do the following:
  - Make a copy of the signed green postcard for yourself.
  - Have the person who did the mailing fill out the Declaration of Mailing.
  - Attach the **Summons and the signed green postcard to the Declaration of Mailing** and file it at the Clerk's Office (Room 110).
- If you do not receive the signed green postcard, attach the original receipt from the post office (which you remembered to keep!) to the Declaration of Mailing.
- Service by mail is deemed to be complete 3 days after the day of mailing.

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### ***What is service by publication?***

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- **Service by Publication** means publishing a notice in the 'legal notices' section of a **LOCAL newspaper in the county where the case is filed**. See the list of legal publication newspapers in the Resources section of this presentation.
- This is a very expensive option (usually between \$200 and \$300) and should be used only as a last resort when you have **no idea** how to locate and serve the other party. **It is a good idea to get some advice** concerning the local rules pertaining to publication before selecting this option.
- You must fill out the required forms and get an order from the court allowing service by publication, which will require a description of your "reasonable efforts" to locate the other party.
- **REMEMBER - CHILD SUPPORT CANNOT BE ORDERED AGAINST A PARENT UNLESS THEY HAVE BEEN PERSONALLY SERVED!!!**

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### ***Does anybody else besides the respondent in my case need to be served?***

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- If your case involves child support and any child who is part of the proceeding has ever received public assistance (TANF) or medical assistance, you must give a copy of any proceedings involving that minor child to the Family Support Division of the Prosecutor's Office.
- In this case, it is OK to personally serve these papers at the Prosecutor's Office yourself. The address is:

**949 Court E  
Tacoma, WA 98402**

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### ***What about serving other papers, once everyone has been notified that the case is filed?***

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- After you have filed and served your original summons and petition, **you will still need to give notice to the other party of ANYTHING ELSE that you file in court in that same action.**
- Once your initial papers have been personally served, additional papers may be mailed, but it is still a good idea to have another person do the mailing.
- If you choose to serve by mail after your initial papers have been served, you will not be required to get an order allowing service by mail for each set of papers and you will only need to send one copy by regular first-class mail, but you must still file a Declaration of Mailing with the court.

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## Are there any special time frames for advance notice that I need to know about?

- Any time you set a hearing on an issue in your case, you must give the other party notice in advance of when the hearing will be held and copies of any documents you are filing with the court related to that hearing.
- It is advisable to have someone else serve these papers 14 days before the date you set the hearing. If the papers are mailed, add an extra 3 days.
- To count the days, use calendar days (include weekends and holidays) but don't count the day of the hearing or the day of mailing.

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## Do I always have to file a return of service?

- For **anything** served in your case by mail or in person, a **Return of Service or Declaration of Mailing** form must be filled out by the person doing the service and filed at the Clerk's Office in Room 110. **Always check to be sure the form is filled out completely before you file it, including a complete listing of all documents served, the address to which they were served and the method of service.**
- **Your hearing may not go forward if there is not proof of service in your file!** If you show up the day of the hearing without having the stamped copy with you, the Commissioner may send you back to the Clerk's Office to fill out another Note for Commissioner's Calendar. You will have to serve the papers again and wait another 14 days from service for your hearing.

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## Where to find the law.....

[www.leg.wa.gov/rcw/index.cfm](http://www.leg.wa.gov/rcw/index.cfm)

[www.lawforwa.org](http://www.lawforwa.org)

Pierce County Law Library  
930 Tacoma Ave. S.  
Tacoma, WA 98402  
(253) 798-7494

- Chapter 4.28 RCW
- Rules of Court CR 3, CR 4, CR 4.1, CR 5, CR 6
- Sheriff's fees for service, RCW 36.28.040

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## Pierce County Legal Publication Newspapers

### The Dispatch

109 Center Street East  
Eatonville, WA 98328  
(P.O. Box 248) (360) 832-4411

### The Fort Lewis Ranger

(for military families only)  
10507 Gravelly Lake Dr. SW  
Lakewood, WA (253) 584-1212

### The Tacoma Daily Index

1019 Pacific Avenue  
Tacoma, WA 98402 (253) 627-4853

### The Morning News Tribune

1950 South State Street  
Tacoma, WA 98405 (253) 597-8742

### The Peninsula Gateway

3555 Erickson  
Gig Harbor, WA 98335 (253) 851-9921

### The Puyallup Herald

Call (253) 597-8605, The Morning News Tribune handles legal publications for the Puyallup paper

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## Resources for Advice & Help

If you cannot afford an attorney there are resources available to help you. The following are some places to contact for advice:

- **CLEAR** statewide low-income hotline, 1-888-201-1014  
**CLEAR, Senior** (over 60), 1-888-387-7111  
CLEAR is available 9:30-12:30 M-F and 3:30-6:30 p.m. (Tuesdays only), for legal advice and referral if you meet low-income guidelines (no income guidelines for seniors).

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## • Volunteer Legal Services Advice Clinics

- **Neighborhood Legal Clinic**, 1<sup>st</sup> three Mondays of each month, **Pierce County Law Library, 930 Tacoma Ave. S.**; call (253) 572-5134 for appointment. Family law advice always available.
- **4<sup>th</sup> Monday *Clinica Legal de la Vecindad***, 4:30-6 p.m. (Spanish-speaking attorneys/translation always available, for monolingual Spanish-speaking clients), walk-in clinic; arrive at the Law Library by 4 p.m.)
- **Pro Se Family Law Clinic**, call (253) 572-5134 for appointment, low-income only, for paperwork review and advice in all areas of family law, 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of each month, 715 Tacoma Ave. S.
- **Lakewood Pro Bono Clinic**, every Thursday evening, 6-7:30 p.m., at **My Service Mind, 11016 Bridgeport Way SW**, call for appointment (253) 584-5615. Korean and Russian translation always available.

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- **Family Law Court Facilitators** can help you with forms and procedures but cannot give legal advice; call them at 8:30 a.m. to make an appointment at 798-3627. The cost is \$10.00 per visit.
- **NOTE:** If you are low-income, have used the Court Facilitators' office to prepare documents in your family law case and would like an attorney to review your paperwork, please call Volunteer Legal Services at (253) 572-5134 for an appointment at the Noon Pro Se Family Law Clinic or the Neighborhood Legal Clinic.

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- **Crystal Judson Family Justice Center**

718 Court E  
 (253) 798-4166  
 8:30-4:30 Monday-Friday

The Family Justice Center provides one-stop access to legal services, advocacy and community services for victims of domestic violence.

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## **Internet Resources**

- [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) -- forms and detailed instructions on how to fill them out as well as information about how to handle specific procedures.
- [www.tacomaprobono.org](http://www.tacomaprobono.org) -- website for the Tacoma-Pierce County Bar Association's Volunteer Legal Services Program. Contains a number of links and contact numbers for family law resources, plus information about the Bar's volunteer attorney programs.
- [www.courts.wa.gov](http://www.courts.wa.gov) -- official State of Washington website for courts

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## **credits**

This presentation was developed and produced by the following organizations with funding from Northwest Justice Project and the Tacoma-Pierce County Bar Foundation:

- Tacoma-Pierce County Bar Association Volunteer Legal Services Program
- Northwest Justice Project Tacoma office
- Northwest Justice Project CLEAR
- Pierce County Clerk's Office, Family Law Facilitators
- Pierce County Law Library
- Tacoma-Pierce County YWCA Legal Department

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## **Thank You to the Following Individuals.....**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Virginia Ferguson</li> <li>• Rebecca Fox</li> <li>• John Purbaugh</li> <li>• Dave Demick</li> <li>• Cindy Leeder</li> <li>• Midge Tipton</li> <li>• Karen Martin</li> <li>• Tina Aure</li> </ul> | <p><b>Research and Production:</b><br/>         Laurie Davenport<br/>         Janet Seldon<br/>         Brandi Yergeau</p> |
|---|--|

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