

## INITIAL SERVICE ON RESPONDENT

At the time of initial filing of your case, you will need to have the Respondent (opposing side) served with your documents. You have **120 days** to obtain personal service on the Respondent. Please note, if you do not obtain service within 120 days of filing the Judge may dismiss your case

Personal service means that a Summons form and a copy of the forms you are filing with the court must be personally served and are delivered by a deputy sheriff or private process server either directly to the other party or to someone over the age of fifteen with whom the other party lives. ***(You cannot serve these papers on the other party yourself or by mail or hand delivery.)***

### HOW DO I OBTAIN SERVICE?

#### IF THE OTHER PARTY LIVES IN MONROE COUNTY:

- Step 1: At your initial case filing, you must bring the Summons Form 12.910(a) filled out and the clerk will sign the Summons, and provide you copies of the papers to be served.
- Step 2: If the other party is local, you must take the Summons, and copies of paperwork to be served to the Monroe County Sheriff's Office Civil Division for service or you may use a private process server. The Sheriff's Office charges a \$40.00 fee for service (cash, money order, or check) and private process servers charge their own individual rates. If using the Sheriff's Office for service, the costs for service may be waived if you apply and are found indigent by the clerk.
- Step 3: The Sheriff's Department will file the Return of Service with the clerk of court once service has been obtained. You should follow up with the civil division, 305-809-3041 to check on the status of service. If you use a private process server, they will provide you a return of service which you will then need to file with the clerk of court.

#### IF THE OTHER PARTY LIVES IN ANOTHER FLORIDA COUNTY:

- Step 1: At your initial case filing, you must bring the Summons Form 12.910(a) filled out and the clerk will sign the Summons, and provide you copies of the papers to be served.
- Step 2: You will need to reach out to the Sheriff's Department in the county where the other party resides and obtain information on their procedures and fees for service.
- Step 3: When coordinating, you will need to find out how the Return of Service is sent to you so you can ensure a copy makes it to your court case.

#### IF THE OTHER PARTY CANNOT BE LOCATED (CONSTRUCTIVE SERVICE/PUBLICATION):

If, after you have made a diligent effort to locate the other party, and you absolutely cannot locate the other party, you may serve the other party by publication. Service by publication is also known as constructive service. However, the courts may have only limited power to order the other party to do certain things if constructive service is used. **This area of the law is very complex, and you may need to consult with an attorney regarding the proper type of service to be used in your case if the other party cannot be located.**

The steps for constructive service/publication are as follows:

Publication for cases WITH Child(ren):

- Step 1: You must fill out and file the **Affidavit of Diligent Search** (Form 12.913(c) and bring a copy of the **Notice of Action for Family Cases with Minor Child(ren)**, Form 12.913(a)(2) to the clerk of court. The clerk will sign the Notice of Action and provide you information on how and where to publish the Notice of Action.
- Step 2: The Notice of Action must be published for **4 weeks** in a qualified local newspaper in the county where the case is pending (the clerk's office will provide this information). If you cannot afford to pay the cost of publication of this Notice in a qualified newspaper, you may ask the clerk to post the notice at a place designated for such postings. You will need to file an **Application for Determination of Civil Indigent Status**, which you can obtain from the clerk. If the clerk determines that you cannot afford these costs, the clerk will post the notice of action.
- Step 3: If you publish in the newspaper, at the end of the 4 weeks the paper will provide you a proof of publication that you will then need to file with the clerk of court. If, your notice is posted by the clerk, the clerk of court will file a proof of publication at the end of 4 weeks of posting.

Publication for cases WITHOUT Child(ren):

- Step 1: You must fill out and file the **Affidavit of Diligent Search and Inquiry** (Form 12.913(b) and bring a copy of the **Notice of Action for Family Cases**, Form 12.913(a)(1) to the clerk of court. The clerk will sign the Notice of Action and provide you information on how and where to publish the Notice of Action.
- Step 2: The Notice of Action must be published for **4 weeks** in a qualified local newspaper in the county where the case is pending (the clerk's office will provide this information). If you cannot afford to pay the cost of publication of this Notice in a qualified newspaper, you may ask the clerk to post the notice at a place designated for such postings. You will need to file an **Application for Determination of Civil Indigent Status**, which you can obtain from the clerk. If the clerk determines that you cannot afford these costs, the clerk will post the notice of action.
- Step 3: If you publish in the newspaper, at the end of the 4 weeks, the paper will provide you a proof of publication that you will then need to file with the clerk of court. If your notice is posted, the clerk of court will file a proof of publication at the end of 4 weeks of posting.

\*\*\*\***PLEASE NOTE:** If proper service is not obtained, the court cannot hear your case.\*\*\*\*