

POINTERS FOR SERVICE BY PUBLICATION OR POSTING IN DIVORCE ACTIONS

CAUTION: The process of service by publication or posting is complicated and is best handled by a lawyer. These printed suggestions are not intended as complete instructions nor are they intended to substitute for legal advice. They have been prepared only to help avoid some common problems that prevent the Final Hearing from taking place when the Petitioner has failed to take some action required by law. It is important that you realize that these pointers will not tell you everything that you must do to ensure your divorce will be granted. **THESE POINTERS ONLY HELP PREVENT A FEW COMMON PROBLEMS.**

I. The most common problem occurs when the Petitioner no longer knows where the Respondent is living, and the Petitioner files a sworn statement that he or she has made a diligent search and inquiry to discover the Respondent's address. Many Petitioners do not know that a "diligent search and inquiry" means that they must really search very thoroughly for the Respondent and follow all the leads that they discover in their search. The following is a list of actions the Court may find are reasonable for the Petitioner to take before filing a sworn statement that a "diligent search and inquiry" has been made.

- A. Ask the U.S. Postmaster in cities of Respondent's previously known residences for forwarding addresses under the Freedom of Information Act.
- B. Search phone directories of the cities and towns of Respondent's possible residence.
- C. Search public records of the tax collector and assessor.
- D. Search records of the Department of Highway Safety and Motor Vehicles.
- E. Inquire of persons in the neighborhoods where the Respondent formerly lived.
- F. Ask at utility companies, including water, sewer, cable, TV, and electric, in areas of likely residence.
- G. Contact the last known employer of Respondent. Ask about any addresses to which W-2 forms were mailed. If there is a pension or profit sharing plan, ask to what address any pension is to be mailed.
- H. Inquire of unions from which Respondent may have worked or which may govern his particular trade or craft.
- I. Inquire of regulatory agencies, including licensing agencies.
- J. Gather names and addresses of Respondent's relatives and contacts with those relatives and ask them all for any information that may lead to finding the Respondent. Petitioner should follow up any leads given, including searching for the Respondent in towns or cities to which he is known to have moved. Relatives include, but are not limited to, parents, brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandparents, greatgrandparents, former inlaws, stepparents, and stepchildren.

- K. Inquire as to whether or not the Respondent may have passed away and, if so, the date and location.
- L. Inquire of law enforcement agencies at the last known residential area of Respondent, including Highway Patrol, State police, Department of Corrections.
- M. Inquire at hospitals in the last area in which the Respondent was known to live.
- N. Use services of private investigation agencies or similar “skip tracing” services.
- O. Search the Internet using such sites as www.database.america.com/ and www.kisw.com/reference/directories.html and www.lycos.com/peoplefind/ and www.switchboard.com/. If you do not have access to the Internet, or are unfamiliar with its use, go to the public library and ask the librarian to help you.
- P. Write letters to the Armed Forces of the U.S. asking whether or not they have any information as to the Respondent. (This is also probably a prerequisite to any valid nonmilitary affidavit in cases where the Respondent is of age to serve and his whereabouts are unknown.)
- Q. Because of due process concerns, if the Respondent has never lived in Florida, the Court may require publication in the town of the Respondent’s last known address, in addition to the required Florida publication.

This list is not necessarily complete, because the circumstances of each case may suggest that other actions are also reasonably necessary. The Petitioner should follow through on all leads that he or she discovers in making the search and should list in the affidavit all actions taken to try to locate the Respondent.

II. If, during your search for the Respondent, you locate the Respondent’s address, you should have the Respondent served by personal service as provided for in Chapter 48 of the Florida Statutes. It will then be unnecessary to file the Affidavit of Diligent Search and Inquiry.

III. There are issues associated with divorce, such as alimony, child support, and distribution of real and personal property, which the Court might not be able to include in the Order it enters if you have served the Respondent by publication or posting. Legal advice is especially important if there is marital property or property of the Respondent in the State of Florida.

THESE SUGGESTIONS ARE NOT INTENDED TO SUBSTITUTE FOR LEGAL ADVICE. IF YOU HAVE QUESTIONS ABOUT THE LAW AND SEEK LEGAL ADVICE, YOU MUST CONSULT A LAWYER.