



WASHINGTON COUNTY COURT OF COMMON PLEAS PRO SE CENTER CUSTODY PACKET

NOTICE

ALL PARTIES INVOLVED IN LITIGATION ARE STRONGLY ENCOURAGED TO SEEK PROFESSIONAL LEGAL ADVICE FROM AN ATTORNEY. Court staff cannot offer any legal advice. The information in this packet is not a substitute for professional legal advice. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

If you desire to speak with an attorney and do not know one, you should call the Bar Association's Lawyer Referral Service (LRS) at (724)225-6710 to schedule a half-hour consultation with a licensed, insured attorney who has experience in the area of law related to your legal matter. The initial half-hour consultation with the attorney is \$25; any fees beyond the first half-hour should be discussed and agreed upon by you and the lawyer.

If you meet certain income and other qualifications, you may be able to secure an attorney through Southwestern PA Legal Services, at (724) 225-6170.

If you have questions about domestic violence or believe that you may be the victim of domestic violence, we strongly recommend that you contact the *Washington County Women's Shelter* at 724.223.8349.

If you suspect child abuse, please contact *CHILDLINE* at 1.800.932.0313. You can report suspected child abuse 24 hours per day and remain anonymous.

NOTICE ON SERVICE

You are **required to serve** a copy of your Complaint or Petition, as well as the Order, on the other party. Service of the initial Complaint or Petition must be done in compliance with Pennsylvania Rule of Civil Procedure No. 1930.4¹. Service of all other documents, once the action is started, must be done in compliance with Pennsylvania Rule of Civil Procedure No. 440². If the location of the other party is not known, service must be given by a Special Order of the Court as is described in Pennsylvania Rule of Civil Procedure No. 430³.

After you have completed service of the Complaint, or Petition, and the Order, you are required to file an Affidavit of Service, which complies with Pennsylvania Rule of Civil Procedure No. 1930.4(h)⁴ with the Prothonotary. You should provide the Custody Office, along with the child custody conference officer, with a copy of your Affidavit of Service at the time of your custody conference.

If you fail to comply with these requirements, your case may be delayed and you may be subject to sanctions, up to and including dismissal.

Pennsylvania Rules of Civil Procedure on Service

Pennsylvania Rules of Civil Procedure are available online at www.pacode.com, title 231.

¹ **Pennsylvania Rule of Civil Procedure No. 1930.4** (*as of 6/26/08*) **Service of Original Process in Domestic Relations Matters** (*The first legal document in the case*)

(a) Persons Who May Serve. Original process in all domestic relations matters may be served by the sheriff or a competent adult:

- (1) by handing a copy to the defendant; or
- (2) by handing a copy;

(i) at the residence of the defendant to an adult member of the family with whom the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or

(ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides; or

(iii) at any office or usual place of business of the defendant to the defendant's agent or to the person for the time being in charge thereof.

(3) or pursuant to special order of court.

Note: See Rule 76 for the definition of "competent adult." Service upon an incarcerated person in a domestic relations action must also include notice of any hearing in such action, and specific notice of the incarcerated individual's right to apply to the court for a writ of *habeas corpus ad testificandum* to enable him or her to participate in the hearing. The writ is available where an incarcerated individual wishes to testify as provided by statute or rule, as well as where the individual's testimony is sought by another. *Vanaman v. Cowgill*, 363 Pa. Super. Ct. 602, 526 A.2d 1226 (1987). See 23 Pa.C.S.A. § 4342(j) and Rule 1930.3. In determining whether a writ of *habeas corpus ad testificandum* should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, 381 Pa. Super. Ct. 632, 554 A.2d 563 (1989).

(b) Service in Protection From Abuse Matters. In Protection From Abuse matters only, original process may also be served by an adult using any means set forth in subdivision (a) above. If personal service cannot be completed within forty-eight (48) hours after a Protection From Abuse petition is filed, the court may, by special order as set forth in subdivision (a)(3) above, authorize service by another means including, but not limited to, service by mail pursuant to subdivision (c) of this rule.

(c) Service by Mail. Except in Protection from Abuse matters unless authorized by special order of court pursuant to subdivision (b) above, original process may also be served by mailing

the complaint and order to appear, if required, to the defendant's last known address by both regular and certified mail. Delivery of the certified mail must be restricted to addressee only, and a return receipt must be requested.

(1) If the certified mail is refused by defendant, but the regular mail is not returned within fifteen (15) days, service may be deemed complete.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, service shall be made by another means pursuant to these rules.

(d) Acceptance of Service. In lieu of service pursuant to this rule, the defendant or the defendant's authorized agent may accept service of original process by filing with the Prothonotary a separate document which shall be substantially in the following form: (d) Acceptance of Service. In lieu of service pursuant to this rule, the defendant or the defendant's authorized agent may accept service of original process by filing with the Prothonotary a separate document which shall be substantially in the following form:

(NOTE: form is located after listing of rules)

(e) Time for Service Within the Commonwealth. Original process shall be served within the Commonwealth within thirty days of the filing of the petition or complaint.

(f) Service Outside of the Commonwealth. Original process shall be served outside the Commonwealth within ninety days of the filing of the complaint:

- (1) by any means authorized by this rule; or
- (2) in the manner provided by the law of the jurisdiction in which defendant will be served; or
- (3) in the manner provided by treaty; or
- (4) as directed by the foreign authority in response to a letter rogatory or request.

Note: [Sections 5323](#) and [5329\(2\) of the Judicial Code, 42 Pa.C.S. §§ 5323](#) and [5329\(2\)](#), provide additional alternative procedures for service outside the Commonwealth. For Protection from Abuse matters, personal service outside of the Commonwealth must first be attempted before service can be made by certified and regular mail or by any of the other means prescribed in subsection (f) of this Rule for out-of-state service.

(g) Reinstatement of Complaint. If service is not made as required by subdivision (e) or (f) of this rule, the Prothonotary upon praecipe accompanied by the original process, or praecipe indicating that the original complaint has been lost or destroyed accompanied by a substituted complaint, shall reinstate the complaint.

(1) A complaint may be reinstated at any time and any number of times. A new party defendant may be named in a reinstated complaint.

(2) A reinstated complaint shall be served as required by subdivision (e) or (f) of this rule.

² **Pennsylvania Rule of Civil Procedure No. 440.** *(as of 6/26/08)*

Service of Legal Papers other than Original Process

(Service of all documents after the first legal document has been served)

(a)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action shall be served upon every other party to the action. Service shall be

made

(i) by handing or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or

Note: Such other address as a party may agree might include a mailbox in the Prothonotary office or an e-mail address. For electronic service by means other than facsimile transmission, see Rule 205.4(g).

(ii) by transmitting a copy by facsimile to the party's attorney of record as provided by subdivision (d).

(2)(i) If there is no attorney of record, service shall be made by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of the party, or by transmitting a copy by facsimile as provided by subdivision (d).

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

Note: This rule applies to the service upon a party of all legal papers other than original process and includes, but is not limited to, all other pleadings as well as motions, petitions, answers thereto, rules, notices, interrogatories and answers thereto.

Original process is served under Rule 400 et seq.

(b) Service by mail of legal papers other than original process is complete upon mailing.

(c) If service of legal papers other than original process is to be made by the sheriff, he shall notify by ordinary mail the party requesting service to be made that service has or has not been made upon a named party or person.

(d)(1) A copy may be served by facsimile transmission if the parties agree thereto or if a telephone number for facsimile transmission is included on an appearance or prior legal paper filed with the court.

(2) The copy served shall begin with a facsimile cover sheet containing (i) the name, firm, address, telephone number, of both the party making service and the party served, (ii) the facsimile telephone number of the party making service and the facsimile telephone number to which the copy was transmitted, (iii) the title of the legal paper served and (iv) the number of pages transmitted.

(3) Service is complete when transmission is confirmed as complete.

Note: See Rule 236(d) providing for the Prothonotary to give notice of orders and judgments, and also other matters, by facsimile or other electronic means.

See Rule 205.4 governing filing and service of legal papers by electronic means other than facsimile transmission.

³ **Pennsylvania Rule of Civil Procedure 430** (*as of 06/26/08*)

a) If service cannot be made under the applicable rule the plaintiff may move the court for a special order directing the method of service. The motion shall be accompanied by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the defendant and the reasons why service cannot be made.

(b)(1) If service of process by publication has been authorized by rule of civil procedure or order of court, the publication shall be by advertising a notice of the action once in the legal publication, if any, designated by the court for the publication of legal notices and in one newspaper of general circulation within the county. The publication shall contain the caption of the action and the names of the parties, state the nature of the action and conclude with a notice substantially in the following form:

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(NAME)

(ADDRESS)

(TELEPHONE NUMBER)

Note: The office shall be that designated by the court under Rule 1018.1(c).

(2) When service is made by publication upon the heirs and assigns of a named former owner or party in interest, the court may permit publication against the heirs or assigns generally if it is set

forth in the complaint or an affidavit that they are unknown.

⁴ **Pennsylvania Rule of Civil Procedure 1930.4(h)** (*as of 6/26/08*).

(h) **Proof of Service.** Proof of service shall be made as follows:

(1) The person making service of original process shall make a return of service forthwith. If service has not been made within the time allowed, a return of no service shall be made upon the expiration of the period allowed for service.

(2) Proof of service shall set forth the date, time, place and manner of service, the identity of the person served and any other facts necessary for the court to determine whether proper service has been made.

(3) Proof of service by a person other than the sheriff shall be by affidavit. If a person other than the sheriff makes a return of no service, the affidavit shall set forth with particularity the efforts made to effect service.

(4) Proof of service by mail shall include a return receipt signed by the defendant or, if the defendant has refused to accept mail service, the returned letter with the notation that the defendant refused to accept delivery, and an affidavit that the regular mail was not returned within fifteen days after mailing.

(5) Proof of service or of no service shall be filed with the Prothonotary.

(6) An executed Acceptance of Service shall be filed in lieu of a Proof of Service where defendant accepts service of original process.

Note: Pennsylvania Rule of Civil Procedure 1930.4(i)

Appearance at Hearing or Conference. Regardless of the method of service, a party who appears for the hearing or conference will be deemed to have been served.

IN THE COURT OF COMMON PLEAS, WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

_____))
_____))
Plaintiff,)
_____))
-VS-) No.)
_____))
_____))
Defendant.)

AFFIDAVIT OF SERVICE

I, _____, hereby verify that on the ____ day of _____, 2009, I served the Defendant with a true and correct copy of the _____ by one of the following methods:

CHECK ONE

1. (____) Service was made by United States Postal Service, first class mail, postage prepaid, certified, restricted delivery, return receipt requested to the Defendant, on the ____ day of _____, 2009. The return receipt signed by the Defendant is attached hereto.
2. (____) The Defendant was personally served with a true and correct copy of the above pleading by hand-delivering the same to the Defendant. Personal service was made at the following location: _____, on the ____ day of _____, 2009 at _____ o'clock __m. by _____(constable)(individual).

I VERIFY THAT THE STATEMENTS MADE IN THIS AFFIDAVIT ARE TRUE AND CORRECT. I UNDERSTAND THAT FALSE STATEMENTS HEREIN ARE MADE SUBJECT TO THE PENALTIES OF 18 Pa.C.S.§4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

Date: _____

SIGNATURE OF PERSON MAKING SERVICE

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL DIVISION

Plaintiff,
Vs. _____
Defendant.

}
}
}
}
}
}
}
}
}
}

No. _____

ACCEPTANCE OF SERVICE

I, _____ do hereby accept service of the _____ in
the above-captioned matter on the ____ day of _____, 2009, and acknowledge
receipt of a true and correct copy thereof.

Date: _____