

How to serve someone by Publication in Illinois - - Supplement©

This Supplement includes a forms guide as well as forms. The forms guide is for use only in filling out the forms. For more information about what these forms mean or are used for, consult the appropriate Self Help packet.

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Forms that are included in this supplement:

Application To Sue As A Poor Person

Affidavit For Service By Publication

Motion to Waive Publication Costs

Order Waiving Publication Costs

Notice of Publication

Certificate of Mailing of Notice of Publication

Letter to Newspaper

Getting Started

Application for Waiver of Court Fees

IMPORTANT: This getting started guide and the instructions are not legal advice. They are only meant to help you learn how to use the *Application for Waiver of Court Fees* and *Order for Waiver of Court Fees* forms. Your use of the forms does not guarantee you will be successful in court.

To learn how to fill out the forms and file them with the court, read the *How to Ask the Court to Participate in a Court Case for Free* instruction sheet and the instructions on the forms.

Names of the forms:	<ul style="list-style-type: none">• <i>Application for Waiver of Court Fees</i>• <i>Order for Waiver of Court Fees</i>
Purpose of the forms:	To ask the court to let you participate in a court case for free.
Types of cases the forms CAN be used for:	All civil cases. For example, divorce cases, family cases, eviction cases, small claims cases, and lawsuits for injury or property damage.
Types of cases the forms CANNOT be used for:	All criminal, traffic, and juvenile cases.
Cost to File the forms:	None.
Special information or Papers needed to complete The forms:	<p>You will need to know income and expense information for the past 12 months and the value of belongings, including real estate for:</p> <ul style="list-style-type: none">• Yourself,• The people you support who live with you, and• If you are filling this form out on behalf of a minor or incompetent adult, you will need that person's information. <p>If you get public benefits, you may want to bring a current proof of eligibility and benefits statement from the agency providing the benefit when you file your forms.</p> <p>If you don't get public benefits, you may want to bring documents showing your income and expense information when you file your forms.</p>
Statutes covering the forms:	<ul style="list-style-type: none">• <u>735 ILCS 5/5-105 and 5/5-105.5</u>• <u>Illinois Supreme Court Rule 298</u>
Where to find the forms and Instruction sheet:	http://www.illinoiscourts.gov/Forms/approved/
For more information:	<p>Read the <i>How to Ask the Court to Participate in a Court Case for Free</i> instruction sheet that comes with these forms. You may also find more information, resources and the location of your local county self help center at:</p> <p>www.illinoislegalaid.org/FeeWaiver.</p>

Find Illinois Supreme Court approved forms at: <http://www.Illinoiscourts.gov/Forms/approved/>

HOW TO ASK THE COURT TO PARTICIPATE IN A COURT CASE FOR FREE

Who can ask the court to participate in a court case for free?

Anyone who must pay a fee as part of a court case. You can ask for yourself, your minor child, or an incompetent adult, but not for anyone else.

How will I know if there is a fee?

The Circuit Clerk can tell you if there is a fee for filing a document with the court. Other fees might come up during the case. For example, the judge might tell you about a fee or the sheriff's department might tell you about a fee for delivering (service of) court papers.

What forms do I need to fill out to ask the court to let me participate in a case for free?

- **Application for Waiver of Court Fees:** to give your income and expense information to the court so it can decide if you can participate in a court case for free.
- **Order for Waiver of Court Fees:** is used by the judge to say your application is granted or denied.

Where can I find the forms I need?

You can find forms at:

<http://www.illinoiscourts.gov/Forms/approved/> .

Is there a deadline for filing an *Application for Waiver of Court Fees*?

- No. You can file an *Application for Waiver of Court Fees* at any time during the court case. But it might take the court a couple of days to review your application and to decide whether you have to pay the filing fees, so don't until the last minute.
- You are responsible for knowing if there are other deadlines to file documents.

Do I have to pay to file an *Application for Waiver of Court Fees*?

No, there is no cost for filing an *Application for Waiver of Court Fees*.

Do I have to file an *Application for Waiver of Court Fees* each time I want to file something?

No. Once the court grants an *Order for Waiver of Court Fees*, you should not have to fill out another application during the court case, unless the court requests more information from you. Show the *Order for Waiver of Court Fees* to the Circuit Clerk or sheriff whenever a fee is required in the case.

What do I do after I fill out the *Application for Waiver of Court Fees* and *Order for Waiver of Court Fees*?

Step 1 – File your forms with the Circuit Clerk in the county where your court case was filed.

- Make a copy of your forms for yourself.
- File your forms with the Circuit Clerk in person. You may be able to file by mail or only depending on the county where you are filing your court case.
- In most counties it is best to file your forms with the Circuit Clerk in person but in certain counties, you must file online. Check with your Circuit Clerk: <http://www.ilcourtsclerks.org/illinois-court-clerks/>
- The Circuit Clerk will stamp your forms. This stamp is your proof that the forms were filed with the court.
- How to File in Person
 - Go to the courthouse in the county where your court case should be filed.
 - Give the Circuit Clerk your original forms and the copies to stamp.
 - The Circuit Clerk will keep the original forms and give back your copies.
- How to File By Mail
 - There may be local rules requiring you to file your *Application for Waiver of Court Fees* in person.
 - In Cook County, you must go in person to have your fees waived.
 - If you do not need to appear in person, mail your original forms and one copy to the Circuit Clerk to Stamp.
 - Include the *Letter to the Circuit Clerk* found at: <http://www.illinoisclerks.org/illinois-court-clerks/> .
 - Include a self-addressed and stamped envelope for the Circuit Clerk to mail the copy to you.
- How to File Online
 - Check your local Circuit Clerk's website to see if online filing is an option for you at: <http://www.ilcourtclerks.org/illinois-court-clerks/> .
 - Follow the instructions for filing online provided by the Circuit Clerk.
 - Even if you can file online, you may have to appear in person to apply for a fee waiver. Ask The Circuit Clerk if you have to file your *Application for Waiver of Court Fees* in person.

Step 2 – Wait for a decision.

- The court will review your *Application for Waiver of Court Fees* and decide whether you have to pay the court fees.
- The court may need more information from you. The court may want to have a hearing on your application. The court will notify you if you need to give more information or documents, or go to court.

Find Illinois Supreme Court approved forms at: <http://www.Illinoiscourts.gov/Forms/approved/>

- After the court makes a decision, the court will fill out the *Order for Waiver of Court Fees*. The *Order for Waiver of Court Fees* will say if you have to pay court fees. The court will give you a copy of this Order.
- The Circuit Clerk will tell you how and when you will get a copy of the *Order for Waiver of Court Fees*.
- If the court decides you have to pay the court fees and you do not pay by the deadline in the *Order for Waiver of Court Fees*, the court may dismiss your case or find against you.
- If the court decides you do not have to pay court fees and you win your case and get money from the other side, the court may make you use all of part of this money to pay the court fees.

How do I prove I cannot afford to pay court fees?

The judge may require you to prove what you have written in your *Application*.

- If you get public benefits (Supplemental Security Income; Aid to the Aged, Blind and Disabled; Temporary Assistance to Needy Families; State Children & Family Assistance; Food Stamps; General Assistance; OR Transitional Assistance), you may want to bring a current proof of eligibility and benefits statement from the agency providing the benefit when you file your forms.
- If you don't get public benefits, you may want to bring documents showing your income and expense information when you file your forms.

FORMS GUIDE

ALL FORMS:

At the top of each form is the “caption”. It is completed as follows:

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE **(number of circuit)** JUDICIAL CIRCUIT
(name of county) COUNTY

(your name))	
	Plaintiff,)
and)	Case No. (get from Clerk at the time
)	you file)
(name of person you are suing))	
	Defendant.)

Determine the number of the “Circuit” according to the chart on the next page. If your county does not appear in the chart, call the Circuit Clerk in the county in which you will be filing your case and ask for the number of the Circuit.

Circuit Courts in Illinois

Cook County is its own judicial circuit. The rest of the counties in Illinois fall into one of 21 circuits.

First Circuit -	The counties of Alexander, Pulaski, Massac, Pope, Johnson, Union, Jackson, Williamson and Saline.
Second Circuit -	The counties of Hardin, Gallatin, White, Hamilton, Franklin, Wabash, Edwards, Wayne, Jefferson, Richland, Lawrence and Crawford.
Third Circuit -	The counties of Madison and Bond
Fourth Circuit -	The counties of Clinton, Marion, Clay, Fayette, Effingham, Jasper, Montgomery, Shelby and Christian.
Fifth Circuit -	The counties of Vermillion, Edgar, Clark, Cumberland and Coles
Sixth Circuit -	The counties of Champaign, Douglas, Moultrie, Macon, DeWitt and Piatt.
Seventh Circuit -	The counties of Sangamon, Macoupin, Morgan, Scott, Greene and Jersey.
Eighth Circuit -	The counties of Adams, Schuyler, Mason, Cass, Brown, Pike, Calhoun and Menard.
Ninth Circuit -	The counties of Knox, Warren, Henderson, Hancock, McDonough and Fulton.
Tenth Circuit -	The counties of Peoria, Marshall, Putnam, Stark and Tazewell.
Eleventh Circuit -	The counties of McLean, Livingston, Logan, Ford and Woodford.
Twelfth Circuit -	The county of Will.
Thirteenth Circuit -	The counties of Bureau, LaSalle and Grundy.
Fourteenth Circuit -	The counties of Rock Island, Mercer, Whiteside and Henry.
Fifteenth Circuit -	The counties of JoDaviess, Stephenson, Carroll, Ogle and Lee.
Sixteenth Circuit -	The counties of Kane, DeKalb and Kendall.
Seventeenth Circuit -	The counties of Winnebago and Boone.
Eighteenth Circuit -	The county of DuPage.
Nineteenth Circuit -	The counties of Lake and McHenry.
Twentieth Circuit -	The counties of Randolph, Monroe, St. Clair, Washington and Perry.
Twenty-first Circuit -	The counties of Iroquois and Kankakee.

FORM: Application to Sue as a Poor Person

- Introduction:** Your name
- Paragraph 1:** Your address, include street and cite.
- Paragraph 2:** The amount and source of your income, for example, \$339.00 per month in AFDC, supplemented by Food Stamps.
- Paragraph 3:** List other sources of income not listed in 2.
- Paragraph 4:** The amount of income you had in the last year.
- Paragraph 5:** Should be the same as 2, unless you expect your income to go up or down, in which case you should list what you expect your income to be.
- Paragraph 6:** List the names and birthdates of your children and/or others you support financially.
- Paragraph 7:** First blank: total value of your possessions;
Second blank: year and make of your car; if you do not have a car, simply put "none";
Third blank: value of your car;

* **Before** you sign your name on the blank line where it says "Plaintiff" you will need to locate a notary public to watch you sign the form. Notary publics can probably be found at the Circuit Clerk's Office or at your local bank. Make sure you bring identification with you so that the notary can verify that you are the person you claim to be in the document.

FORM: Affidavit For Service By Publication

- Introduction:** Your Name.
- Paragraph 1:** The document that you have filed and are trying to serve on the Defendant. For example, a Petition For Dissolution of Marriage.
- Paragraph3:** The last address you had for the party you are suing. (Include street, city and state)

Sign your name on both blank lines next to where it says "Plaintiff" and print your name below each signature.

FORM: Motion to Waive Publication Costs (use only if you want to apply for a waiver of the costs of publication)

First blank: Your name.

Second blank: Name of county in which you filed your case.

Sign your name on both blank lines next to where it says "Plaintiff" and print your name below each signature.

FORM: Order Waiving Publication Costs (use only if you are submitting the Motion to Waive Publication Costs)

First blank: Name of county in which your case is filed.

DO NOT FILL IN THE DATE OR THE SIGNATURE LINE FOR THE JUDGE.

FORM: Notice of Publication

First blank: The party you are suing's name.

Second blank: What it is you are asking the court for (for example, a divorce)

Third blank: Name of the county in which you filed your case.

Fourth blank: Name of the city in which the courthouse is located.

Fifth, Sixth, & Seventh blank: Put a date at least 45 days after the date you send the Notice to the Newspaper.
Put the day, month and year.

Eight blank: Print the name of the Circuit Clerk in the county in which you filed your case
above the line where it says "CIRCUIT CLERK".

FORM: Letter to Newspaper

First blank: Name and address of newspaper in your town or county

Second blank: Your case name. (for example, In Re the Marriage of Jones)

Third blank: Your case number (for example 96-D-67)

If your Motion to Waive Publication Costs was denied or you did not ask for a waiver then check box 1. If your Motion to Waive Publication Costs was approved, check box 2 and list the name of the county in which your case was filed in the first two blanks and the name of the city in which the courthouse is located in the third blank.

Sign your name and print your name, address and telephone number where you can be reached. Don't forget to include a self-addressed, stamped envelope.

FORM: Certificate of Mailing of Notice of Publication

First blank: Your name.

Second blank: Name of city in which you mailed a copy of the Publication Notice to the party you are suing.

Third blank: Date you mailed a copy of the Publication Notice to the party you are suing.

Sign your name on both blank lines next to where it says "Plaintiff" and print your name below each signature.

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT

_____ COUNTY

_____ ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
_____ ,)	
)	
Defendant,)	
)	

AFFIDAVIT FOR SERVICE BY PUBLICATION

_____, on oath states as follows:

1. The Defendant has gone out of this State or has concealed her/himself within the State such that I cannot serve him with a copy of my_____.
2. Upon diligent search and inquiry, I cannot discover the Defendant's address.
3. The last known address I know of for the Defendant was:

_____, Plaintiff

Under penalties as provided by law pursuant to Section 5/1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she/he verily believes the same to be true.

_____, Plaintiff

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT

_____ COUNTY

_____ ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
_____ ,)	
)	
Defendant,)	
)	

AFFIDAVIT FOR SERVICE BY PUBLICATION

I, _____ , state the following facts are true:

1. I have filed an Application to Sue as a Poor Person, which lists my income, resources and assets.
2. An order was entered by this Court which allowed me to pursue this action without payment of costs.
3. I am unable to determine where the Defendant is living. Consequently, I am unable to serve process on the Defendant personally.
4. If I knew where the Defendant was, a sheriff would serve process without charge.
5. I have filed a Publication Affidavit which states that I cannot discover the Defendant's address and the Defendant's last known address.
6. Illinois case law recognizes that publication costs of persons like myself are a local obligation and that service by publication is a constitutional right under due process of law. King v. King, 21 Ill. App.3d 1062, 316 N.E.2d 555 (4th Dist. 1974).

WHEREFORE, I ask that the Court waive publication costs and order the _____ County Treasurer to pay the costs of publication to the newspaper which publishes the required Publication Notice.

_____, Plaintiff

Under penalties as provided by law pursuant to Section 5/1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she/he verily believes the same to be true.

_____, Plaintiff

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT

_____ COUNTY

_____ ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
_____ ,)	
)	
Defendant,)	
)	

ORDER WAIVING PUBLICATION COSTS

The Court, having considered the Motion to Waive Publication Costs filed herein by Plaintiff and having previously allowed Plaintiff to pursue this action as a poor person, finds that Plaintiff is indigent.

IT IS HEREBY ORDERED that the Clerk of the Circuit Court shall cause publication to be made on behalf of Plaintiff and the Treasurer of _____ County pay costs of publication upon presentation of a statement by the newspaper wherein such notice was published and upon filing and allowance of claim. The County Treasurer shall pay for such necessary and proper expenses pursuant to 55 ILCS 5/5-1106.

DATE: _____, 20__

ENTER: _____

JUDGE

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT

_____ COUNTY

_____ ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
_____ ,)	
)	
Defendant,)	
)	

NOTICE OF PUBLICATION

Notice is given you, _____ , Defendant, that this cause has been commenced against you in this Court asking for _____ and other relief.

Unless you file your response or otherwise file your appearance in this cause in the office of the Circuit Clerk of _____ County, Courthouse, _____, Illinois, on or before the _____ day of _____, 20____, a _____ and other relief may be granted as prayed for by the Plaintiff.

CIRCUIT CLERK

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT

_____ COUNTY

_____,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
 Defendant,)
)

Case No. _____

CERTIFICATE OF MAILING OF NOTICE OF PUBLICATION

I, _____, hereby certify that I mailed a copy of the Notice of Publication to the Defendant at his/her last known address by depositing the same in the United States mail at _____, Illinois, postage fully prepaid on _____, 20____.

_____, Plaintiff

Under penalties as provided by law pursuant to Section 5/1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she/he verily believes the same to be true.

_____, Plaintiff

LETTER TO NEWSPAPER

DATE: _____, 20____

_____ Newspaper

Dear Sir or Madam:

Re: _____, Case number: _____

Enclosed you will find a publication notice in the above referenced case. Please run this Notice once a week for 3 weeks. After publication has been completed, please send the Certificate of Publication to me in the enclosed self-addressed stamped envelope.

Please bill me for the cost of publication. If you have any questions, please feel free to contact me.

Please bill the office of the Treasurer in _____ County, _____ County Courthouse, _____, Illinois for the cost of publication. I have enclosed a court order requiring the Treasurer to pay the cost of publication in my case. If you have any questions, please feel free to contact me.

I thank you for your cooperation

Sincerely,

