

SERVICE ON NONRESIDENTS

Publication

Publication is a notoriously unreliable means of informing parties about pending litigation. Abba Gana v. Abba Gana, 251 Ga. 340, 343, 304 S.E.2d 909 (1983).

If the address of the party to be served is **unknown**, movant must show that **reasonable diligence** has been exercised in attempting to ascertain the party's whereabouts before an order for publication is appropriate. Movant must pursue **every reasonably available channel of information**. *Abba Gana*. The showing should be by affidavit or verified pleading. **Note: A motion and order is required for publication, as well as an order finding that the party was served by publication.**

In order to justify service by **publication** where the address of the party is **known**, or believed to be known, generally it must be shown that service was attempted unsuccessfully at the party's last known address and that personal service was proven impossible. *Girard v. Weiss, 160 Ga.App. 295, 298, 287 S.E.2d 301 (1981).*

Reasonable Diligence

Movant must show that **reasonable diligence** was exercised in attempting to ascertain the party's whereabouts. The typical divorce complainant usually knows significant background information about the missing spouse, and therefore usually has many feasible methods of tracking down the absentee. *Abba Gana*. The means employed must show real effort to actually find the party. *Floyd v. Gore, 251 Ga.App. 803, 806, 555 S.E.2d 170 (2001).*

Potential sources of information: parents, siblings, children and other relatives, friends, employers, landlords, neighbors, schools, military, banks, telephone directories, tax records, voter records, internet search, internet locator services, old email addresses, old telephone numbers, post office, forwarded mail, prison records, private investigators. A letter to the last known address would seem almost always appropriate with a request to the post office for any forwarding address.

A form Affidavit of Diligent Search is available which may adapted for use in publication cases.

Personal Service - Address Known

If the address of the nonresident party to be served is **known**, or believed to be known, personal service must be attempted in accordance with OCGA § 9-11-4(f)(2). *Southworth v. Southworth, 265 Ga. 671, 674, 461 S.E.2d 215 (1995).* **Note: A motion and order is required for service outside the state.**

If personal service was attempted unsuccessfully at the party's last known address and personal service has proven impossible, service by publication is then appropriate. *Girard v. Weiss.*

Domestic Long Arm Statute

When personal jurisdiction is sought under the long arm statute for alimony, child support or property division, personal service outside the state is generally required. OCGA § 9-10-91 et seq. **No order for service is required.**