



## FAQ: Process Service in Pro Bono Cases

### HOW DO I GET PROCESS SERVICE FOR FREE IN MY PRO BONO CASE?

The Civil Sheriff's Office will serve paperwork for free with a copy of the file-stamped Statement of Legal Aid Representation (SOLA) (see page 2 for more information). Be sure to schedule this in advance, as this service can take more time than normal process service. The Civil Sheriff's Office does NOT perform due diligence and there may be other restrictions. For more information, contact the Civil Sheriff's Office directly (702) 671-5822.

In addition to the Civil Sheriff's Office, some process servers will serve for free or at a reduced cost. We suggest contacting your regular process server to explain that this is a pro bono case and ask them to serve for free or a reduced rate.

If you are trying to serve a party who is in another state, another country, or who is incarcerated, process service fees may apply.

### WE MUST INCUR FEES OR COSTS THAT CANNOT BE WAIVED. WHAT CAN I DO?

All pro bono clients have signed the "Pro Bono Guidelines" which indicate that although they are getting the attorney's services for free, there may be some costs or fees for which they will be responsible. If there are process service, due diligence, or other fees or costs which cannot be waived, you may ask the client to pay those fees directly or to reimburse you or your office. ***Please discuss any anticipated fees or costs with your client BEFORE those costs are incurred.***

If it is a hardship for the client to pay the costs or fees, you should ask them to cover a portion of the costs and then contact our office about reimbursement for the remainder. We have a very limited litigation budget and can reimburse for ***some*** fees and costs, but only after all other options have been exhausted. ***If you plan on requesting reimbursement, please contact our office for pre-approval BEFORE incurring any costs or fees.***

### WHAT IS A SOLA?

The Statement of Legal Aid Representation (SOLA) is a document that will waive the Court's filing fees when filed with District Court or Justice Court. It is prepared by the Pro Bono Project at Legal Aid Center of Southern Nevada and verifies to the Court that the client is within the income guidelines to have their filing fees waived.

If you did not receive a SOLA from the Pro Bono Project or have other questions about the SOLA, please contact our office.

## **HOW DO I E-FILE THE SOLA?**

When e-filing a Complaint or Answer, the SOLA should be attached as the last page of the document. To avoid being charged a filing fee or being rejected for non-payment, during the e-filing process make a note in the “Comments” section that a SOLA is attached to the Complaint or Answer. Once you have received a case number, immediately e-file the SOLA.

## **HOW DO I SERVE AN ADVERSE PARTY WHO LIVES IN ANOTHER STATE?**

To serve an adverse party who lives in another state, you can do any of the following:

- (1) Contact your usual process server. They typically send the documents to a process server in that area who is approved for service in that state. Remember to ask your process server to serve for free or at a reduced rate.
- (2) Contact a process server in that area directly. If you explain the situation, some may give a reduced fee for pro bono cases.
- (3) Contact local law enforcement in that jurisdiction to find out what agency will serve court papers. Some agencies will agree to honor the SOLA and serve for free. If not, they are often a less-expensive alternative than a process server.
- (4) Ask if the client has a family member or friend in that area who will serve the adverse party and complete the Affidavit of Service.
- (5) If it is a “friendly” adverse party, he/she may agree to sign an Acceptance of Service. You can mail the adverse party the Summons and Complaint, ask him/her to sign the Acceptance of Service before a notary public, and then mail the original back. The Acceptance of Service takes the place of an Affidavit of Service.

## **HOW DO I SERVE AN ADVERSE PARTY WHO LIVES IN ANOTHER COUNTRY?**

To serve an adverse party who lives in another country, consider these options:

- (1) Use a process server who can facilitate out-of-country service. That server will send the documents to a process server approved for service in that country. This can be very costly.
- (2) Contact local law enforcement in that country to find out who will serve court papers.
- (3) Ask if the client has a family member or friend who will serve the adverse party and complete the Affidavit of Service.
- (4) If it is a “friendly” adverse party, he/she may agree to sign an Acceptance of Service. You can mail the adverse party the Summons and Complaint, ask him/her to sign the Acceptance of Service before a notary public, and then mail the original back. The Acceptance of Service takes the place of an Affidavit of Service.

## HOW DO I SERVE AN ADVERSE PARTY WITHOUT A CURRENT ADDRESS?

If you are not sure if you have a current address, [NRC](#) Rule 4(e)(1) permits attempted service at the last-known address of the adverse party. If this is unsuccessful, follow the steps for service by publication (see below for more information).

## HOW DO I SERVE BY PUBLICATION?

According to [NRC](#) Rule 4, every Defendant must be served personally. The Plaintiff must first attempt to serve the adverse party at the last-known address. If the adverse party cannot be located at the last-known address and after a “due diligence” search (see below for more information), the Plaintiff may request permission from the Court to serve by publication. See [NRC](#) Rule 4(e)(1) for details on when service by publication is generally permitted.

An Affidavit of Due Diligence must be filed along with the Affidavit for Service by Publication and proposed Order for Service by Publication. If the Court grants the request, the Court’s instructions for service must be strictly followed. Generally this means the Summons and Complaint must be mailed to the Defendant’s last-known address and a proof of mailing filed with the Court. In addition, the Summons and Complaint will need to be published for a specified time period in a newspaper designated by the Court. When the action is published, the Summons MUST include a sentence which states the nature of the action.

After publication, proof of publication must be filed with the Court. Some publishers (including Nevada Legal News), will file the proof of publication and then mail a file-stamped copy to the attorney. When arranging the publication, make sure to ask the publisher if they will file the proof of publication.

Nevada Legal News will publish for free with a file-stamped copy of the SOLA. You may contact them directly at (702) 382-2747 for more information.

## WHAT IS A DUE DILIGENCE SEARCH, AND IS IT AVAILABLE FOR FREE?

According to [NRC](#) Rule 4, every Defendant must be served personally. The Plaintiff may request permission from the Court to serve by publication (see above for more information), but generally only if the Defendant cannot be found after a “due diligence” search. This is an attempt to locate the Defendant through an Internet search, searching government records and utility companies, asking family members or friends, and so on. It is sometimes known as a “skip trace” or a “locate”.

The sample Affidavit of Due Diligence on the Family Law Self-Help Center’s [website](#) outlines the level of search detail expected by the Court. The person conducting the due diligence search must be 18 years or older, an uninterested party, and must satisfy the requirements set forth in [NRC](#) Rule 4(e)(1).

When the adverse party’s last-known address is outside of the state, the person conducting the search should follow [NRC](#) Rule 4(e)(1) closely for the information required in the Affidavit of Due Diligence.

Once the due diligence search is complete, the person conducting the search must complete an Affidavit of Due Diligence which presents to the Court the Plaintiff's efforts to locate the Defendant. The Affidavit should be filed with the Court.

Many process service companies will perform a due diligence search for a fee. We suggest contacting your regular process server to explain that this is a pro bono case and ask them to perform the search for free or at a reduced rate. If you cannot get this service for free, the client will need to pay this cost. As previously indicated, you may ask the client to pay those fees directly or to reimburse you (see page 1 for more information).

### **HOW DO I SERVE AN ADVERSE PARTY WHO LIVES IN ANOTHER COUNTRY IF WE DO NOT HAVE A CURRENT ADDRESS?**

If your client does not have a current address for the adverse party and does not know for a fact where he or she resides, [NRC](#)P Rule 4(e)(1) permits attempted service at the Defendant's last-known address in the United States and then service by publication (see page 3 for more information).

### **HOW DO I SERVE AN ADVERSE PARTY WHO IS INCARCERATED?**

Some facilities require service be conducted by an outside process server while others do not. As such, you should contact the facility directly for their procedures. Process services fees may apply (see page 1 for more information).

### **THE JUDGE IS REQUIRING ME TO PUBLISH IN ANOTHER STATE. WHAT DO I DO?**

Follow the [NRC](#)P Rule 4(e)(1) for service by publication, as well as any specific direction from the Court. You may have to research the legal publications approved for service by publication in that jurisdiction and then request advance approval from the Department.

If the publication will not publish for free or for a reduced fee, the client will have to pay the publication costs (see page 1 for more information).

If you have any further questions on Service of Process, please contact the Pro Bono Project at [probono@lacs.org](mailto:probono@lacs.org), or call (702) 386-1070 ext. 137.