

Law Library for San Bernardino County

Research Guide, www.sblawlibrary.org (909) 885-3020

As adapted from the San Diego County Public Law Library Research Guide

(<http://www.sdcpll.org/guides.htm>) (619) 531-3900

Research Guide: Service of Notice

Disclaimer

The information in this research guide is intended to assist patrons with their legal research and is in no way intended to replace the counsel of an Attorney. This resource is not comprehensive; you may need to do additional research and all references should be checked for accuracy reflecting changes to law since this creation of this guide. Any decisions about how to proceed must be determined by the patron. The library staff can recommend and refer you to online and print resources that will help you find answers to your law-related questions. The staff at the Law Library for San Bernardino County cannot explain or interpret the law itself and we are not permitted to give legal advice.

Service of Notice and Other Papers

Last Updated: April 10, 2009

Who Can Serve Papers:

Any person who is at least 18 years of age and not a party to the action may serve papers in a case (see California Code of Civil Procedure '414.10, and Judicial Council Forms POS 020 (personal service), 030 (service by mail) and 040 (general proof of service-civil) located online at <http://www.courtinfo.ca.gov/forms/>. A “party” to the action cannot serve papers in his or her own case.

Time for Serving Papers:

Most motions: Notice of most types of motions, as well as the papers in support of the motion, must be filed with the court and served on all other parties at least 16 court days before the scheduled hearing date of the motion. All papers opposing a motion must be filed with the court and served on all other parties at least nine court days before the hearing date, and reply papers must be filed with the court and served on the other parties at least five court days before the hearing date (see California Code of Civil Procedure '1005(b), California Rule of Court 3.1300(a)).

Summary Judgment motions: You must wait at least 60 days after the defendant has answered or demurred, and the motion must be heard at least 30 days before the scheduled trial date. Notice of a summary judgment motion, as well as the papers in support of the motion, must be filed with the court and served on all parties at least 75 calendar days before the scheduled hearing date of the motion. All papers opposing a motion must be served and filed not less than 14 days before the hearing date. Any reply papers must be served and filed not less than five days before the hearing date (see California Code of Civil Procedure '437c.) Service of Notice and Other Papers 2

If papers are served by mail, you must increase the 16 or 75-day advance notice period or the deadline to do any act in response to the papers served, as follows:

- * Add 5 calendar days if the place of address is within the state of California.
- * Add 10 calendar days if the place of address is outside of California, but within the United States.
- * Add 20 calendar days if the place of address is outside the United States.
- * The deadline to file notice of intention to move for a new trial, to vacate judgment or of appeal is not extended by mailed service.
(See California Code of Civil Procedure "1013).

If papers are served by fax or express mail, add 2 calendar days to the notice period or deadline to do any act in response to the papers served. The deadline to file notice of intention to move for a new trial, to vacate judgment or of appeal is not extended by fax or express mail service (see California Code of Civil Procedure "1013 (c), (e)).

Methods of Serving Papers:

Papers may be served on the attorney of a party who is represented by one, or directly on an unrepresented party, by either personal service (hand delivery), mail, express mail or, if the parties have agreed in writing, by fax (see California Code of Civil Procedure " 1010, 1011, 1012, 1013, 1015, 1016). Note: Papers opposing a motion and all reply papers must be served by personal delivery, fax, express mail, or some other means consistent with the rules in order to ensure delivery to the other parties. Not later than the close of the next business day after@ the papers are filed with the court (see California Code of Civil Procedure '1005(c)).

Personal Service:

On the Attorney: Notice of a motion or other papers may be hand delivered to the attorney or left at the attorney=s office with the receptionist or other person in charge, in a clearly labeled envelope. If no one is there, the papers may be left in a conspicuous place in the office, between nine in the morning and five in the afternoon (see California Code of Civil Procedure '1011(a)).

On the Party: Notice of a motion or other papers may be hand delivered to the party, or left at the party=s residence between the hours of eight in the morning and six in the evening, with a person not less than 18 years of age (see California Code of Civil Procedure '1011(b)).

Service by Mail:

Notice of a motion or other papers may be served by depositing them in a post office, mailbox or other facility maintained by the United States Postal Service, addressed to the person upon whom they are to be served, at the last office address given by that person on

any document served on the party making the service; otherwise at that party's place of residence. Include in the mailing a copy of the completed but unsigned Proof of Service by Mail form (Judicial Council POS 030) located online at <http://www.courtinfo.ca.gov/forms/>. Include a notation of the date and place of mailing or an unsigned copy of the certificate of mailing. Service is deemed complete at the time of deposit, but note the increased notice times explained above for notice made by mail (see California Code of Civil Procedure "1005(b), 1013(a), (b)).

If the party's residence address is unknown, service may be made by delivering the notice or papers to the clerk of the court (see California Code of Civil Procedure '1011(b)). The notice or papers delivered to the clerk must be enclosed in an envelope addressed to the party in care of the clerk, and the back of the envelope must state, "Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown, [Name of party whose residence address is unknown] and [Case name and number]" (California Rules of Court ' 3.252).

Service by Express Mail:

Notice of a motion or other papers may be served by depositing them in a post office, mailbox or other facility maintained by the United States Postal Service for Express Mail or by any other express service carrier, or by delivering them to an authorized courier or driver for such a carrier, in a sealed envelope, Express Mail postage paid and addressed to the person upon whom it is to be served, at the last office address given by that person on any document served on the party making the service; otherwise at that party's place of residence. Include a notation of the date and place of deposit or an unsigned copy of the certificate of deposit. Service is deemed complete at the time of deposit, but note the increased notice times explained above for notice made by express mail (see California Code of Civil Procedure "1005(b), (c), 1013(c), (d)).

Service by Fax:

Note the date and place of transmission, as well as the fax number the papers are being sent to, on the papers or include an unsigned copy of the certificate of transmission containing the fax number to which the notice or other paper was transmitted. Service is deemed complete at the time of faxing transmission, but note the increased notice times explained above for notice made by fax (see California Code of Civil Procedure "1005(b), (e), 1013(e), (f)).

Service by Publication:

Only a Summons may be served on a party by publication. The publication must be in a named newspaper published in this state that is most likely to give actual notice to the party to be served, (see California Code of Civil Procedure "415.50, 415.95, 417.10(b), and the Library's Research Guide for Service of a Summons and Complaint).

Filing Proof of Service

If you are making a motion, you must file all of your completed Proofs of Service with the court at least five court days before the scheduled hearing date (California Rules of Court 3.1300 (c)).