

LOC.R. 57.8 INSTRUCTIONS FOR SERVICE OF SUMMONS OR NOTICE

In any proceeding requiring the Court to issuance of summons or notice, the attorney or party requesting the service shall file a written instruction for service with the Court that is accompanied by sufficient copies of all filings to be served. The Request for Summons or Notice form (Loc. F. 1.1A) may be used for this purpose.

Service of summons by the Court, unless waived, is required in an action: for pre-death declaration of the validity of a will (R.C. 2107.082), to contest a will (R.C. 2107.72), to requesting direction or instructions (R.C. 2107.46), for a declaratory judgment, the construction of a document, or a determination of a class (R.C. 2721.05 and 2721.12), to sell real estate (R.C. 2127.14), for a guardian to improve real estate (R.C. 2111.34), and to terminate or modify trusts (R.C. 5804.11 through 5804.16). This list is non-exclusive.

Service of Notice pursuant to Civ.R. 73(F) may be made with or without court intervention.

In any proceeding (other than a name change) in which service by publication is requested, the pre-publication affidavit required by Civ.R. 4.4(A)(1) and Civ.R. 73(E)(6) demonstrating reasonable diligence must be provided to the Court. The affidavit must specifically set forth the efforts that were taken to attempt to determine the address and identity of each party to be served by publication.

Constructive service by publication is authorized in those cases enumerated in R.C. 2703.14.

Publication for a name change must be made one time at least 30 days before the hearing on the application (R.C. 2717.01). The applicant prepares the publication notice and the applicant is responsible for paying for and arranging for the timely publication.

Publication for a public sale in a real property sale proceeding is arranged by the fiduciary and must be advertised at least three (3) successive weeks prior to the scheduled sale (R.C. 2727.32).

Publication of service of process when authorized in a declaration of validity of will proceeding is for three (3) consecutive weeks and the publication is given by the Court (R.C. 2107.082).

In an adoption proceeding when service of notice is being made upon a non-consenting parent, where personal service cannot be obtained, then service of notice by publication must be given once a week for three consecutive weeks and it is given by the Court pursuant to the law [R.C. 3107.11(C) and Civ.R. 73(E)(6)].

When service of summons is being made by publication, it shall be made by publication once a week for six (6) successive weeks unless a smaller number of weeks is provided by law and service shall be complete on the date of the last publication. The 28-day period for answer commences with the date of the last publication [Civ.R. 4.4(A)(1) and Civ.R. 12(A)(1)].

In every instance when publication is used or required, proof of the publication from the publisher must be filed with the Court in accordance with Civ.R. 4.4(A)(1).