

PROBATE SUMMONS/NOTICE OF HEARING/GARNISHMENT SERVICE PACKETS - ATTORNEY INFORMATION

Under the Missouri e-filing system now utilized by the 16th Judicial Circuit Court-Probate Division, once a cause of action has been accepted for filing, a clerk prepares the necessary documents for service. In most instances, this will either be a summons or a notice of hearing. The summons or notice of hearing is sent to the attorney by an e-mail containing the link so that the filer may print and assemble the service packet containing the requisite documents to be served.

A summons¹ is to be used in matters requiring personal service on an Opposing Person by the Jackson County Unit of Service and Judgment Enforcement (formerly Civil Process), an Out of County Sheriff or a Private Process Server. In those instances, the attorney must deliver the summons, pleadings and any other necessary documents to one of the following:

- The Unit of Service and Judgment Enforcement (formerly Civil Process), located in Kansas City at 1305 Locust, 2nd Floor, Kansas City, MO 64106 or in the drop box in Civil Records, 415 E. 12th Street, 3rd Floor, Kansas City, MO 64106 or in Independence at 308 W. Kansas, 2nd Floor, Room 224, Independence, MO 64050²; or
- The Out of County Sheriff or other appropriate process server in the County where the summons is to be served; or
- A Private Process Server³.

If notice is permitted by certified mail or ordinary mail, the attorney must prepare the appropriate mailer and send the notice of hearing, pleadings and any other necessary documents to the Opposing Person and/or Interested Persons. The attorney must also submit to the Probate Department either the signed Certified Mail Return Receipt (if notice is by certified mail) or a Certificate of Mailing (if notice is by ordinary mail) no later than **SEVEN (7)** days prior to the date of the hearing. If the Certified Mail Return Receipt or the attorney's Certificate of Mailing is not filed within that time, the matter will remain on the docket but may be continued to allow for timely service. In addition, the matter may be continued if the unserved Opposing Person and/or Interested Person appears and requests additional time. The attorney for the petitioning person or the *pro se* petitioning person **MUST** appear at the scheduled hearing time or the matter may be dismissed for want of prosecution.

DOCUMENTS - Pursuant to State Statutes, Supreme Court Rules, Local Court Rules and the Probate Procedures Manual, attorneys are required to print, attach and serve specific documents with certain types of Petitions, Applications, and other filings. Below are the documents that must be served in particular types of service packets. The documents have been listed in the

¹ This Attorney Information does not address service pursuant to Mo.R.Civ.P. 54.16.

² Any service packet to be served by the Unit of Service and Judgment Enforcement or Out of County Sheriff shall have all the required service fees paid at the time of filing the pleading requiring service.

³ You must obtain the Court's approval of the Order allowing the designated Private Process Server to serve process. Note that Private Process Servers are not allowed to serve an order, writ or other process that requires any levy, seizure, sequestration, garnishment, eviction or other taking of property.

order in which they should be assembled for service. The documents fall in one of the following three categories distinguished by type style:

- **ALL CAPS** - Digital documents you must print from the 16th Judicial Circuit Court's website;
- Upper/Lower Case - Digital documents that will be provided to you in a case-specific link from the Probate Division;
- *Italics* - Documents created by you or otherwise in your possession and/or available on case.net.

PUBLICATION - Should you seek personal service on an individual by publication (as opposed to notice of the specific action as required by the Probate Code), you will need to submit to the Court:

- A motion, affidavit in support thereof and a proposed order pursuant to Rule 54.12(c).

The person requesting publication must contact the newspaper to obtain the first date of publication to be included on the notice and must complete the notice reflecting that date. In addition, the person requesting publication must deliver payment to the legal publication chosen to be utilized so that actual publication may occur. The Court will deliver the notice to the newspaper but it is the responsibility of the person seeking service by publication to ensure that the affidavit of publication is filed with the Court by the designated newspaper.

Finally, for all causes of action in which service is by summons, once the matter is set for hearing, it is the attorney's responsibility to obtain the Notice of Hearing from the Court, send it to all interested persons and counsel by ordinary mail and file a Certificate of Mailing with the Court no later than **SEVEN (7)** days before the date of the hearing.

SERVICE PACKET INSTRUCTIONS

Below is a listing of common causes of action filed in the Probate Division with basic service requirements which may require a hearing. If your cause of action is not listed and/or if your matter necessitates alternative service considerations please see a Probate Judicial Officer.

Please note the general rule is that if the Court enters a full adversary order in a cause of action, service is by summons. If the Court enters an abbreviated adversary order, service is by certified mail. If no adversary order is entered, ordinary mailed notice is sufficient unless otherwise noted.

<p><u>ADULT</u> <u>GUARDIANSHIPS/CONSERVATORSHIPS</u> Upon the Respondent (Note - Requires Personal Service on the Respondent and ONLY upon the Respondent - cannot be constructively served): 2 - Notice of Hearing/Notice of Rights (One for return and one stapled to the service packet) Order for Attorney <i>Application for Appointment of Guardian and Conservator and all attached required Exhibits (but not the medical report); and</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p> <p>Note #1: A Petition for Electroconvulsive Therapy will also follow this format.</p> <p>Note #2: Personal service is required on the attorney-in-fact if Application is also seeking termination of any existing durable power of attorney</p>	<p><u>MINOR</u> <u>GUARDIANSHIPS/CONSERVATORSHIPS</u> Upon the Natural Parents: 2 - Summons (One for return and one stapled to the service packet)* Adversary Order <i>Application for Appointment of Guardian and Conservator and all attached required Exhibits; and</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p> <p>*If whereabouts of parent is unknown or identity of parent is unknown, service is by publication pursuant to Rule 54.12(c)</p> <p>Note: If both parents consent, no summons is required. Instead, service will be by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>
<p><u>APPLICATION FOR LETTERS OF ADMINISTRATION</u> Upon all interested persons by certified mail: Adversary Order Notice of Hearing <i>Application for Letters of Administration and all attached required Exhibits</i></p>	<p><u>PETITION TO REQUIRE ADMINISTRATION</u> Upon all interested persons by certified mail: Adversary Order Notice of Hearing <i>Petition to Require Administration and all attached required Exhibits</i> <i>Claim if filed with Petition</i></p>

<p><u>PETITION TO DETERMINE HEIRSHIP</u> <u>(Filed after 1 year from the date of death not as part of an existing estate)</u> Upon all interested persons by certified mail: Notice of Hearing Adversary Order</p> <p><i>Petition to Determine Heirship</i> Note: A Notice of Hearing is sent by you to the newspaper publishing said Notice.</p>	<p><u>PETITION TO DETERMINE HEIRSHIP</u> <u>(Filed within an existing estate)</u> Upon all interested persons by summons: 2 - Summons (One for return and one stapled to the service packet)* Adversary Order <i>Petition to Determine Heirship</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>*For service on known and unknown interested persons and for those interested person whose whereabouts are unknown, service is by publication pursuant to Rule 54.12(c)</p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>
<p><u>CLAIMS</u> To be served by certified mail upon the opposing person and ordinary mail upon the attorney for the opposing person: Adversary Order Notice of Hearing</p>	<p><u>PETITION TO SELL REAL PROPERTY IN A DECEDENT'S ESTATE</u> Upon all interested persons by ordinary mail: Notice of Hearing <i>Petition to Sell Real Property</i> <i>Certificate of Mailing</i></p>
<p><u>PETITION FOR DISCOVERY OF ASSETS</u> To be served by summons upon opposing person: 2 - Summons (One for return and one stapled to the service packet) Adversary Order <i>Petition for Discovery of Assets</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>	<p><u>OBJECTIONS TO FINAL SETTLEMENT</u> To be served by certified mail upon fiduciary and ordinary mail upon counsel for fiduciary: Adversary Order Notice of Hearing <i>Objections</i> <i>Certificate of Mailing</i></p>

<p><u>APPLICATION FOR COMPENSATION</u> To be served upon fiduciary by certified mail and ordinary mail upon counsel for fiduciary: Notice of Hearing <i>Application for Compensation and attached Exhibits</i> <i>Certificate of Mailing</i></p>	<p><u>APPLICATION FOR EXEMPT PROPERTY, FAMILY OR HOMESTEAD ALLOWANCE</u> To be served upon opposing person by certified mail and ordinary mail upon counsel for fiduciary: Adversary Order Notice of Hearing <i>Application for Exempt Property, Family or Homestead Allowance</i> <i>Certificate of Mailing</i></p>
<p><u>PETITION TO ADMIT LOST WILL/PROVE WILL IN SOLEMN FORM</u> To be served upon interested persons by certified mail: Adversary Order <i>Petition to Admit Will and any attached Exhibits</i></p>	<p><u>PETITION TO DETERMINE LIABILITY</u> To be served by summons upon opposing person: 2 - Summons (One for return and one stapled to the service packet) Adversary Order <i>Petition To Determine Liability</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>
<p><u>PETITION TO INVADE JOINT/MULTIPLE PARTY ACCOUNTS IN CONSERVATORSHIP</u> To be served upon interested persons by certified mail: Adversary Order <i>Petition to Invade Joint/Multiple Party Account</i></p>	<p><u>PETITION TO REMOVE FIDUCIARY</u> Upon personal representative by summons: 2 - Summons (One for return and one stapled to the service packet) Adversary Order <i>Petition to Remove Fiduciary and any attached Exhibits</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p> <p>Upon guardian and/or conservator by certified mail unless otherwise directed by the Court: Notice of Hearing Adversary Order <i>Petition to Remove Fiduciary and any attached Exhibits</i></p>

<p><u>PETITION TO TERMINATE MINOR GUARDIANSHIP (without consent of fiduciary)</u> Upon fiduciary and natural parents (if not petitioning person to action) by summons: 2 - Summons (One for return and one stapled to the service packet) Adversary Order <i>Petition to Terminate Minor Guardianship Order Appointing Special Process Server (if using)</i> Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>	<p><u>PETITION TO TERMINATE ADULT GUARDIANSHIP/CONSERVATORSHIP (with consent)</u> Upon guardian and/or conservator and protectee by certified mail: Notice of Hearing Adversary Order <i>Petition to Terminate Adult Guardianship/Conservatorship and any attached Exhibits</i></p>
<p><u>PETITION TO COMPROMISE CONTROVERSY</u> Upon interested persons by certified mail: Notice of Hearing Adversary Order <i>Petition to Compromise Controversy</i></p>	<p><u>PETITION TO SET ASIDE REFUSAL/CLERK'S CERTIFICATE (without consent)</u> Upon interested persons by certified mail and counsel by ordinary mail: Notice of Hearing Adversary Order <i>Petition to Set Aside Refusal/Clerk's Certificate</i></p>
<p><u>PETITION FOR INSTRUCTIONS REGARDING INSOLVENT ESTATE AND PRO RATA PAYMENT OF CLAIMS</u> Upon interested persons by certified mail: Notice of Hearing Adversary Order <i>Petition for Instructions Regarding Insolvent Estate and Pro Rata Payment of Claims</i></p>	<p><u>PETITION FOR AUTHORITY TO CONTINUE DECEDENT'S BUSINESS</u> Upon interested persons by certified mail: Notice of Hearing Adversary Order <i>Petition for Authority to Continue Business</i></p>
<p><u>PETITION TO BAR STATUTORY ALLOWANCE OF SPOUSE</u> Upon spouse by summons: 2 - Summons (One for return and one stapled to the service packet) Adversary Order <i>Petition to Bar Statutory Allowance of Spouse Order Appointing Special Process Server (if using)</i> Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>	<p><u>MOTION BY ATTORNEY TO WITHDRAW</u> To be served upon fiduciary by certified mail and ordinary mail upon counsel for fiduciary: Notice of Hearing <i>Motion to Withdraw</i></p>

<p><u>PETITION TO ABANDON PROPERTY</u></p> <p>To be served upon interested persons by certified mail: Adversary Order Notice of Hearing <i>Petition to Abandon Property</i></p>	<p><u>GARNISHMENT</u></p> <p>To be personally served upon Garnishee: Writ JACKSON COUNTY RETURN SHEET (from Website) OR OUT-OF-COUNTY RETURN SHEET and 1 stapled to the service packet NOTICE TO GARNISEE (from website) <i>Interrogatories to Garnishee</i></p> <p>Note: Garnishments served upon federal agencies must be served by certified mail. The Court is required to send Notice to Debtor of Exemptions with 3 days of service of the Garnishment. The Court will send the Notice at the time the service documents are sent to the attorney to ensure compliance with statute.</p>
<p><u>TRUST ACTIONS</u></p> <p>To be served by summons upon opposing person: 2 - Summons (One for return and one stapled to the service packet) <i>Trust Action</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>	<p><u>PETITION FOR RESTORATION WITH CONSENT OF FIDICIARY AND PROTECTEE</u></p> <p>Upon both persons by certified mail: Notice of Hearing <i>Petition for Restoration</i></p>