

TIPS ON SERVING DOCUMENTS

In family law cases, the rules about serving documents are set out in rule 6 of the *Family Law Rules*. The *Family Law Rules* are available on-line at: http://www.e-laws.gov.on.ca/html/regq/english/elaws_regq_990114_e.htm

What is service?

- Service is giving notice to the other party that a case has been started or that a step is being taken in the case. Usually you serve a document by giving or sending it to the other party.

Why is service important?

- Cases cannot be decided fairly unless everyone who has the right to know:
 - is aware that a court case is going on;
 - is aware that a step in a case is going to happen; and
 - has enough time to put their own side of the story before the court.

What is “special service”?

- Special service is used for the documents that start the case or documents that could lead to the person going to jail.
- Special service usually means giving a copy of a document directly to the person who must be served. Other ways to provide “special service” include:
 - Serving the person’s lawyer--if the lawyer confirms that they received the document in writing on the document served;
 - Mailing the document--if the person sends back a special form acknowledging that he or she received the document; or
 - Leaving a copy with an adult who lives with the person and then mailing a copy either that day or the next.
- For more details on special service, see subrule 6 (3).

What is “regular service”?

- Regular service can be carried out by sending the document to a party’s lawyer or, if the party does not have a lawyer, to the party, by:
 - Mail;
 - Courier; or
 - Fax.

Are there restrictions on who can serve documents?

- A person who serves a document in a family case must be at least 18 years old.

- **If you are a party, you cannot serve the following documents yourself:**
 - Form 8: Application (general)
 - Form 8A: Application (divorce)
 - Form 8B: Application (child protection or status review)
 - Form 8B.1: Application (status review for Crown ward and former Crown ward)
 - Form 8B.2: Application (general) (*Child and Family Services Act* cases other than child protection and status review)
 - Form 8C: Application (secure treatment)
 - Form 8D: Application (adoption)
 - Form 8D.1: Application (dispense with parent's consent to adoption before placement)
 - Form 15: Motion to Change
 - Form 15A: Change Information Form
 - Form 23: Summons to witness
 - Form 23A: Summons to witness outside Ontario
 - Form 31: Notice of contempt motion
 - Form 34L: Application for openness order
 - Form 34N: Application to change or terminate openness order
 - A notice of motion or default hearing in which the person to be served faces a possibility of imprisonment

If I can't serve a document, who can?

- You can ask a friend or family member to serve the other person.
- If you do not have anyone who can serve a document, you can hire a process server. For information on process servers in your area, look in the yellow pages or www.canada411.ca.

What if it's not safe to serve the other party?

- You can ask one of the court staff to arrange to have your documents served if you fear for your safety or the safety of any friend or family member who could serve documents.

What if the other party is hard to serve or avoiding service?

- You should consult with a lawyer. If you do not have a lawyer, ask court staff for assistance.

How does the court know that a party was served?

- The person who serves the party must complete a Form 6B: Affidavit of service and it must be filed with the court.
- The affidavit of service must be sworn or affirmed before a justice of the peace, lawyer, notary public or someone designated as a commissioner for oaths. Some court staff are able to commission court documents.