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Rule 4.13. Summons: Service by publication

- (A) Praecipe for summons by publication.** In any action where notice by publication is permitted by these rules or by statute, service may be made by publication in newspaper or on the Indiana Court Legal Notice Website. Summons by publication may name all the ~~parties~~persons to be served, and separate publications with respect to each party shall not be required. The ~~party~~person seeking ~~such service, or his attorney,~~ shall ~~file~~ submit his request therefor upon the a praecipe for summons ~~along~~ with supporting affidavit~~(s)~~ that diligent search has been made, that the defendant cannot be found, has concealed his whereabouts, or has left the state, and shall prepare the contents of the summons to be published. ~~The summons shall be signed by the clerk of the court or the sheriff in such manner as to indicate that it is made by his authority.~~
- (B) Contents of summons by publication.** The summons shall contain the following information:
- (1) The name of the ~~party~~person being sued, and the ~~party~~person to whom the notice is directed, and, if the ~~party's~~person's whereabouts are unknown or some or all of the parties are unknown, a statement to that effect;
 - (2) The name of the court and ~~cause~~ number assigned to the case;
 - (3) The title of the case as shown by the complaint, ~~but if~~ publication is made by newspaper and there are multiple parties, the title may be shortened to include only the first named plaintiff and those defendants to be served by publication with an appropriate indication that there are additional parties;
 - (4) The name and address of the party seeking service or the attorney representing the ~~party~~person seeking service;
 - (5) A brief statement of the nature of the suit, which need not contain the details and particulars of the claim. A description of any property, relationship, or other res involved in the action, and a statement that the ~~party~~person being sued claims some interest therein;
 - (6) A clear statement that the ~~party~~person being sued must respond within thirty [30] days after the last date of publication~~notice of the action is published~~, and ~~in case he fails to do so, failure to answer may result in a~~ judgment by default ~~may be entered against him~~ for the relief demanded in the complaint.
- (C) Publication of summons.** ~~The summons shall be~~
- (1) Newspaper publication. The summons shall be published three [3] times by the ~~clerk or~~ partyperson making it, the first publication promptly and each two [2] succeeding publications at least seven [7] and not more than fourteen [14] days after the prior publication, in a newspaper authorized by law to publish notices, and

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published in the county where the complaint or action is filed, where the res is located, or where the defendant resides or where he was known last to reside. If no newspaper is published in the county, then the summons shall be published in the county in this state nearest thereto in which any such paper may be printed, or in a place specially ordered by the court. The ~~party~~ ~~person~~ seeking the service or his attorney may designate any qualified newspaper, and ~~if he fails to do so, the selection may be made by the clerk~~ will select the newspaper if no designation is made.

(2) Website publication. The summons shall be published by posting for four [4] consecutive weeks if publication is on the Indiana Court Legal Notice Website.

(D) By whom made ~~or procured.~~

~~(1) Newspaper publication. The party seeking service is responsible for transmitting the request for publication to the newspaper. Service of summons by publication shall be made and procured by the clerk, by a person appointed by the court for that purpose, or by the clerk or sheriff of another county where publication is to be made.~~

~~(2) Website publication. The party seeking service by publication to the Indiana Court Legal Notice Website must file the request in the case in the same manner as other electronically or conventionally filed documents.~~

(E) Return and proof of service. The ~~clerk or party~~ ~~person~~ making the service shall prepare and file the return and include the following:

(1) For newspaper publication, the party making service shall prepare the return and include the following:

(a) Any supporting affidavits of the ~~newspaper printer~~ containing a copy of the published summons ~~which was published~~;

(b) ~~(2)~~ An ~~information or~~ statement that the newspaper and the publication meet all legal requirements applicable to such publication; and

(c) ~~(3)~~ The dates of publication.

(2) For publication on the Indiana Court Legal Notice Website, the automated entry to the Chronological Case Summary constitutes the return and proof of service.

~~The return and affidavits shall be filed with the pleadings and other papers in the case and shall become a part of the record as provided in these rules.~~

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Rule 5. Service and Filing of Pleadings, Documents, and Other Papers

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(B) Service: How made. Whenever a party is represented by an attorney of record, service shall be made upon such attorney unless service upon the party is ordered by the court. Service upon the attorney or party shall be made by delivering or mailing a copy of the papers to the last known address, or where service is by electronic means

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~~approved by the Indiana Office of Judicial Administration (IOJA) FAX or e-mail, by faxing or e-mailing~~ a copy of the documents to the fax number or e-mail address set out in the appearance form or correction as required by Rule 3.1(E).

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(3) Service by ~~electronic means~~ *FAX or e-mail*.

- (a) ~~Electronic S~~service ~~by e-mail~~ from the Clerk. The Clerk may transmit notice of ~~all~~ rulings, orders, or judgments required by Trial Rule 72(D) by ~~electronic means approved by IOJA~~ *e-mail* to ~~all~~ parties represented by attorneys and to ~~all~~ unrepresented parties who have supplied the Court with an e-mail address for service. ~~The transmission may include a link to or copy of the ruling, order, or judgment. Where a copy of a written ruling, order, or judgment is being transmitted by e-mail, service may be made by including a link to the document or by attaching the document being served to the e-mail in .pdf format.~~
- (b) ~~Electronic S~~service ~~by FAX or e-mail~~ from other parties. A party who has consented to service by ~~electronic means approved by IOJA~~ *FAX or e-mail* may be served by ~~transmitting a link to or copy of~~ *attaching* the document ~~being served to an e-mail in .pdf format~~. Discovery documents must also be served in accordance with Trial Rule 26(A).
- (c) Completion of ~~electronic~~ service ~~by FAX or email~~. Service by ~~electronic means approved by IOJA~~ *FAX or e-mail* shall be deemed complete upon transmission. Service that occurs on a Saturday, Sunday, a legal holiday, or a day the court or agency in which the matter is pending is closed, or after 5:00 p.m. local time of the recipient shall be deemed complete the next day that is not a Saturday, Sunday, a legal holiday, or a day the court or agency in which the matter is pending is not closed.

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