

# Notifying the Defendant in a Paternity or Modification Case

*USE these instructions if:*

the Court has given you a Domestic Relations Summons  
and

- ✓ You know where the Defendant lives  
and
- ✓ The Defendant lives in Massachusetts.

*DO NOT use if:*

- ✗ You do not know where the Defendant lives  
OR
- ✗ The Defendant lives outside of Massachusetts

Produced by the Suffolk Probate & Family Court Community Outreach Program—Richard Iannella, Register

## **READ THIS:**

Information provided in this packet IS NOT LEGAL ADVICE, it is information. This information is not a substitute for a competent lawyer.

When you sign a legal document or file any papers in court, it can seriously affect you in the future. You should always try to get legal advice before filing documents.

Bar Association lawyer referral services are listed in our brochure "Legal Resources in and around Suffolk County." Also listed are free legal service providers. You may be eligible for help.

## INSTRUCTIONS FOR COMPLETING the Domestic Relations Summons

*If you represent yourself in a paternity or modification complaint you are responsible for serving the complaint on the other parties. The court does not do it for you.*

*If the Department of Revenue (DOR) is part of your case, and you are the custodial parent, they may serve the complaint for you. If you are the non-custodial parent, you may have to complete a summons for the department of revenue in addition to one for the custodial parent. Fill out the summons and check with the staff at the front desk or the staff of the resource center*

Fill in the summons as shown in the sample form on the next page. Fill in all the information requested, **EXCEPT** If the court has impounded your address, or if you feel that it is dangerous to let the other party know, don't put in the address. Contact court staff for help.

### TO SERVE THE SUMMONS:

**YOU** must arrange for *both* a copy of the complaint *and* a copy of the summons to be delivered to the defendant. This is called giving notice or 'service of process'.

The court allows different ways for you to give notice:

1. You may hire a deputy sheriff or constable to serve the papers. The deputy or constable must be authorized to serve in the county where they deliver the papers to the Defendant. Although there is a cost, it often is the most reliable way to serve papers. Deputies charge a fee to serve a summons and complaint in Suffolk County. If they don't locate the Defendant after trying several times, you can bring the notice of diligent search to the court and seek other ways to give notice.
2. If the other party—the 'Defendant'—is willing to accept service, they may write on a copy of the summons, "I hereby accept service of the within summons and complaint", then date and sign the paper *in front of a Notary Public*.
3. The papers can be delivered by a '*disinterested person*,' who is someone who does not have a financial or other particular interest in the case. Do not have papers served by anyone who might be covered by a custody, support or restraining order in the case--avoid service by close relatives, etc. If you need someone to serve as a disinterested person, most constables will do so for a fee. (An added advantage is a constable knows exactly what must be done.)

There is a free brochure available at the court to help you locate a deputy sheriff or constable.

If you have a constable or sheriff deliver the papers, phone and arrange to get the original summons and a copy of the complaint to them. After delivering the papers to the defendant, they will fill out the back of the original summons and either get it to you or send it directly to the court. *Make sure you discuss with the sheriff or constable whether they will give the summons to you or to the court. If they give it to you, you will have to file it with the court, either in person or by mail.*

**UNLESS THE COMPLETED SUMMONS IS FILED IN COURT, YOUR CASE CANNOT BE HEARD. THE COURT NEEDS PROOF THAT YOU NOTIFIED THE OTHER PARTY ABOUT THE CASE.**

**THIS IS A SAMPLE FORM, DO NOT COPY THE EXACT WORDS FROM THIS FORM. READ THE LINES, AND FILL IN YOUR OWN INFORMATION ON THE ORIGINAL SUMMONS.**

Commonwealth of Massachusetts  
The Trial Court  
Probate and Family Court Department

\_SUFFOLK Division

Docket No. \_\_\_\_\_

**Domestic Relations Summons**

**IF YOU HAVE AN ATTORNEY, BRING THIS FORM TO YOUR ATTORNEY**

\_\_\_\_\_, Plaintiff

v.

\_\_\_\_\_, Defendant

To the above named

*You are hereby summoned and required to serve upon* \_\_\_\_\_

*plaintiff's attorney whose address is* \_\_\_\_\_

*a copy of your answer to the complaint for* \_\_\_\_\_  
(type of action)

which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of \_\_\_\_\_ to file your answer to the complaint in the office of the Register of this Court at Boston \_\_\_\_\_ either before service upon plaintiff's attorney or within a reasonable time thereafter.

Witness \_\_\_\_\_ Elaine M. Moriarty \_\_\_\_\_ Esquire, First Justice of said Court

at Boston \_\_\_\_\_, \_\_\_\_\_ day

\_\_\_\_\_  
Register of Probate

**ACCEPTANCE OF SERVICE**

I, \_\_\_\_\_, the above named Defendant hereby accept service of this summons and understand that judgment may be rendered against me in accordance with the complaint a copy

*Date* \_\_\_\_\_

\_\_\_\_\_  
Signature of Defendant

**NOTARIZATION**

\_\_\_\_\_ ss

*Date* \_\_\_\_\_

*Then personally appeared the above named* \_\_\_\_\_

who made oath that the foregoing acceptance was his free act and deed.

*Signature of Notary Public* \_\_\_\_\_  
*Print Name* \_\_\_\_\_