

PROOF OF SERVICE - PUBLICATION

RE 812 (Rev. 8/15)

CONSUMER RECOVERY ACCOUNT UNIT

No form is provided for this means of service for two reasons. First, most newspapers provide their own form for the publisher to fill out. Second, this form of service is not authorized unless service is not possible by personal service or authorized by certified mail. A declaration under penalty of perjury by the claimant or his or her attorney is necessary to establish due diligence in attempting to serve the judgment debtor by the other means. Therefore, to make proof of service by publication, provide the following:

1. Declaration under penalty of perjury by the publisher as to the dates of publication, bearing a copy of the Notice as published.
2. Declaration under penalty of perjury by the claimant or his or her attorney detailing the efforts made to locate and serve the judgment debtor by certified mail or personal service. These efforts must be sufficient to establish “reasonable diligence” as required by Business and Professions Code Section 10471.1(b). The courts have not as yet established guidelines as to what constitutes “reasonable diligence” within the meaning of Section 10471.1(b), but the Judicial Council Comment to Section 415.50 of the Code of Civil Procedure, which governs the service of a summons by publication, is probably a good description of what is required:

“The term ‘reasonable diligence’ . . . denotes a thorough, systematic investigation and inquiry conducted in good faith by the party or his agent or attorney . . . A number of honest attempts to learn defendant’s whereabouts or his address by inquiry of relatives, friends, and acquaintances, or of his employer, and by investigation of appropriate city and telephone directories, the voters’ register, and the real and personal property index in the assessor’s office, near the defendant’s last known location, are generally sufficient.”