

Serving The Evasive Defendant

Surveillance can increase success rate.

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/EINPresswire.com/ -- In most states,
and in federal court, a lawsuit starts
when the complaint is filed, but nothing

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happens until the defendants are served with the summons and complaint. In jurisdictions where service by mail is permitted, the case begins when the complaint or other initiating document is mailed to the defendant, respondent or witness. In some states, this requires a return receipt from the addressee.

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But in federal proceedings, Federal Rule of Civil Procedure 4 requires service of summons, if not waived, to be served within strict time limits. Service must either be (1) by following the state's service of process laws; or (2) delivering a copy to the individual person; or leaving a copy at the individual's dwelling with someone of suitable age and discretion who resides there; or serving an agent for service of process. See, FRCP 4(e)(1) and (2).

And in California, a big state with a famously-transient population, service ordinarily requires either personal delivery or “substituted service.” Substituted service requires three

attempts at personal service (i.e., knocks on the front door) at three different times of day (morning, afternoon or after 6 p.m.), and then leaving a copy with a “competent member of the household, or person apparently in charge (of an office), with a follow-up copy by mail. See, California Code of Civil Procedure §§ 415.10 to 415.20.

But when a defendant or witness seeks to evade service, these time-honored and legally-sound procedures do not always work. It can be like the Ella Fitzgerald song – “Comes a summons, you can hide behind the door.”

What then to do?

Surveillance with service of process might be the only option. This requires engaging investigators or registered [California Process Servers](#) (rules differ by state), and setting up a surveillance of the person who must be served.

It all starts with a confirmed current residential or work address. If a current address is not available, an investigative firm can be engaged to obtain one. Hiring a local expert such as an [Orange County Private Investigator](#) is an excellent move. Then a “stakeout” is set up, a lot like the way law enforcement officers watch a location, and wait for a suspect or witness to appear. On-site continuous surveillance, if backed up by good research to ensure a valid current address, can get a defendant

served when none of the other techniques work.

Sometimes it requires thinking outside the box. A respondent in a child custody case can be served at a custody exchange. A defendant can be served when arriving at work. A witness can be served at his or her work-out gym. All these "outside-the-box" methods require knowledge of the service target's routine; information regarding the service target's home, work and recreational habits; and/or many hours of stakeout, waiting at the subject's residence.

With the evasive defendant, the most efficient method may be (1) good research, followed by (2) a good stakeout, followed by (3) undeniable personal service in the form of hand delivery.

The well-prepared legal administrator, sole practitioner or law office manager has a good private investigation firm's telephone number in their electronic Rolodex, and a professional relationship with an experienced [California Private Investigator](#).

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