RCW 59.12.040

Service of notice — Proof of service.

Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions.

RULE 4 PROCESS

1. Summons--Issuance.

(g) Return of Service. Proof of service shall be as follows:

Proof of service under the unlawful detainer statutes may be made by affidavit of the person making service "in like manner and with like effect as the proof of service of summons in civil actions." RCW 59.12.040. Proof of service of a summons in a civil action is governed by CR 4(g). Under that rule, proof of service by one other than the sheriff is by the server's affidavit of service endorsed upon or attached to the summons. CR 4(g)(2). Proof of service by mail is by affidavit of the serving party stating that copies of the documents were sent by mail in accordance with the rule, and stating **to whom, and when, the envelopes were mailed**. CR 4(g)(4). Marsh-McLennan Bldg., Inc. v. Clapp, 96 Wn.App. 636, 980 P.2d 311 (Wash.App. Div. 1 1999)

(g)(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit must state the **time, place, and manner** of service.

 Service by means other than personal service, i.e., constructive and substitute service, "is in derogation of the common law and cannot be used when personal service is possible." *Rodriguez v. James-Jackson*, 127 Wn. App. 139, 143, [111 P.3d 271](http://lawriter.net/getCitState.aspx?series=P.3d&citationno=111+P.3d+271&scd=WA) (2005). Substitute service by mail or constructive service by publication is authorized when the plaintiff avers the following facts: (1) that the defendant could not be found in Washington after a diligent search; (2) that the defendant was a resident of Washington; and (3) that the defendant had either left the state or concealed himself within it, with intent to defraud creditors or avoid service of process. RCW 4.28.100(2) (requirements for constructive service by publication); CR 4(d)(4) (authorizing substitute service by mail "[i]n circumstances justifying service by publication"); *Rodriquez*, 127 Wn. App. at 144. The trial court's ruling on whether a plaintiff has satisfied the requirements for constructive or substitute service is a question of law, reviewed by this court de novo.[[7](http://lawriter.net/CaseView.aspx?scd=WA&DocId=311&Index=%5c%5c192%2e168%2e1%2e175%5cdtsearch%5cIndex%5cWA%5cWACASENC&HitCount=2&hits=3ef+3f1+&hc=53&fcount=10&fn=56578-8-I&id=1&ct=2" \l "ftn.FN7)] *Rodriguez*, 127 Wn. App. at 144; *Boes v. Bisiar*, 122 Wn. App. 569, 576, [94 P.3d 75](http://lawriter.net/getCitState.aspx?series=P.3d&citationno=94+P.3d+975&scd=WA)(2004)

Before moving for substitute or constructive service, the plaintiff must make reasonably diligent efforts to achieve personal service. *Brennan v.* *Hurt*, 59 Wn. App. 315, 317, [796 P.2d 786](http://lawriter.net/getCitState.aspx?series=P.2d&citationno=796+P.2d+786&scd=WA) (1990).

"Reasonable diligence requires the plaintiff to make honest and reasonable efforts to locate the defendant." *Wright v. B & L Props., Inc.*, 113 Wn. App. 450, 458, [53 P.3d 1041](http://lawriter.net/getCitState.aspx?series=P.3d&citationno=53+P.3d+1041&scd=WA) (2002). "[W]here a plaintiff possesses information that might reasonably assist in determining a defendant's whereabouts, but fails to follow up on that information, the plaintiff has not made an honest and reasonable effort" to locate the defendant. *Brenner v. Port of Bellingham*, 53 Wn. App. 182, 187, [765 P.2d 1333](http://lawriter.net/getCitState.aspx?series=P.2d&citationno=765+P.2d+1333&scd=WA) (1989). Merrigan v. Pritchard, 56578-8-I (WACA) (2007)

First and basic to any litigation is jurisdiction. First and basic to jurisdiction is service of process. Statutes authorizing service by means other than personal service, i.e., constructive and substituted service, require strict compliance.

As an aside, I had a law professor fifty odd years ago who said it this way, “Notice is the gut of due process”. He went on to become a Superior Court judge before being appointed to the Court of Appeals. His name was Willard Roe, Div. III