

## **Substitute Service of Citation If at First You Don't Succeed, Try Substituted Service TRCP 106b**

If you tried to have the Respondent personally served or served by certified mail, but the attempts failed, the Court may authorize a different or ***substitute method of service***.  
*Texas Rules of Civil Procedure, 106b.*

To ask the Court to allow substituted service, you will need to file:

1. a ***Motion for Substituted Service***, and
2. an ***Affidavit Supporting Substituted Service***

with the clerk's office where you filed the petition.

The ***Motion*** for Substituted Service explains that service was attempted, but failed, and describes the method of service you are asking the Court to authorize.

The Affidavit gives a detailed description of the attempts made to serve the Respondent, and should include:

1. dates and times the service was attempted
2. the manner in which service was attempted (personal or certified mail, etc.)
3. the address where Respondent can be found (usually a home or work address), and
4. if you have attempted service by certified mail, a confirmation from the post office that the address is correct.

***The Affidavit is prepared by the process server who attempted serving the Respondent.***

After you file the Motion and Affidavit, you will need to prepare an Order for the judge to sign, and present your motion, affidavit and order to the Court. The judge will review your affidavit to determine whether or not enough effort has been made to serve the Respondent conventionally.

The Court may authorize a process server to deliver the citation and petition to any person 16 years-old or older at an address where the Respondent is likely to be found. The Court may also order service in any other manner that the affidavit or other evidence shows will be reasonably effective to notify the Respondent of the lawsuit.

If the judge grants your motion for substituted service, you will need to take the signed motion back to the clerk's office, and ask the clerk to issue a new citation. Your process server will need the new citation to attempt service again, with the substituted service method that the judge has authorized.

Once the process server has successfully served the respondent in your case, s/he will complete a Return of Citation, and file it with the court. The Return of Citation will let the judge know that the substituted service method was successful.

After the respondent's Answer period has passed (20 days plus the following Monday after the citation was delivered), and the Return of Citation has been on file for at least ten days, you can set your case for a final hearing. If the respondent in your case failed to answer within the answer period, you can follow your county's procedures to get a default judgment. If the respondent did file a written response to your case, you will need to set your case for a hearing, and send notice of the date and time of the hearing to the address the respondent included in his or her written response.