Divorce Lawyer Advice for when you can't locate your ex-partner to serve divorce papers

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Service is the sending or giving of filed court documents to the opposing party. Proof of service of the divorce application is one of the procedural requirements asserted by the court that must be complied with in order for the court to grant the divorce.

What options exist if you cannot serve the divorce application on your former spouse?

Once you have made all reasonable attempts to serve the divorce application, you make seek the assistance of a divorce lawyer who can apply to the court for either substituted service or dispensation of service.

Substituted service allows you to serve the documents on a third party who the Court is satisfied will bring those documents the attention of your former spouse.

Dispensation of service is where the Court is satisfied that you have made all reasonable attempts to locate your spouse in attempt to serve the divorce application, and as a result the Court says that you do not need to serve the documents.

Why should you seek assistance from a divorce lawyer?

In order to apply to the Court for substituted or dispensation of service, you must complete an application in a case and an affidavit. Your application will need to set out all the attempts you made to locate your former spouse. Such details to be included in this supporting affidavit may consist of:

- Details of all attempts to make enquiries to locating the other party
- When you last saw or communicated with them
- The last known address
- Their nearest relatives and friends and any enquiries you made with these people
- Their employment and any enquiries you made with the employer
- Details of any property owned by the other party
- If they reside overseas details of the country, duration of their time there and future plans if known
- Any known reasons why they are not contactable
- Cost difficulties in locating them
- Any other relevant information

For more information, visit our page on Separation and Divorce.

If you are having difficulty serving your divorce application, or if you are thinking to divorce and anticipate you might have difficulty, contact a divorce lawyer from our team

on 1800 300 170 or email us at familylaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.