



Can I serve my family law documents by social media?

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With more and more people working from home since the pandemic, the use of social media in all parts of everyday social and professional life continues to grow. This leads us to ask if court documents (and for our purposes, we're talking about family law court documents) can be served using social media channels like Facebook, Twitter etc.

It is now commonplace for a "normal" workday to involve various digital platforms and applications, including video-conferencing, for filing documents and communicating with colleagues.

In family law proceedings, all documents filed with the court must be served on all parties to the proceedings.

What is "service of documents"?

Serving documents on a party means notifying a person that:

legal proceedings have commenced against them; or

further documents in an existing legal proceeding have been filed with the court.

How is service of documents carried out?

Service of documents can be done in a number of ways.

Physical service – handing the documents to a person;

Engaging a third party, a professional process server to locate a person and serve the documents on them;

Posting or emailing the document; or

Any other way ordered by the court.

Family law requirements for service of documents

There are specific rules of service for particular documents depending on the nature of your family law matter.

The *Family Law Rules* (Cth) 2004 set out the process of service for particular documents. For example:

An Application for Divorce must be served by a third party, and the receiving person must sign an “acknowledgement of service”;

An Initiating Application (an application to commence either property or parenting proceedings) must be physically served on a party by a third party;

A responding application to an initiating application can be posted or emailed to the party.

Using social media to serve family law documents

There are times when it is difficult to locate a party you have to serve a document which the *Family Law Rules* require you to serve.

In more difficult circumstances, the *Family Law Rules* enable a party to bring an application before the court for “substituted service” of that particular document by another way of service.

A common order sought for substituted service is service via **Facebook Messenger**.

If a party seeks an order for substituted service, they must submit an application to the court, including filing an accompanying affidavit.

The affidavit should contain evidence that demonstrates the following

What method is proposed to bring the document to the attention of the person they are attempting to serve;

Have they taken all reasonable steps to serve the document on the party, or bring the document to the attention of that person;

If the person to be served could reasonably become aware of the existence of the document by some other form of communication;

The likely cost of service; and

The nature of the case.

Examples of evidence that may be brought before the court when seeking an application for substituted service

Copies of written correspondence sent to the other party's last known address demonstrating attempts made to comply with the *Family Law Rules*;

Engaging a process server to physically serve the party at their last known address or an address that the party is known to be at (i.e. partner's house or parent's house);

Examples to demonstrate that the person to be served regularly uses the social media platform proposed to be used for substituted service.

If the Family Court is satisfied that a person has made reasonable attempts to effect service on a person in the normal way, they may order the requirements for service to be either dispensed with completely or dispensed with on a condition such as substituted service by Facebook.

If you are successful in seeking an order for substituted service by Facebook or any other form of social media such as LinkedIn or Twitter, you will be permitted to serve the relevant document on that person via that social media platform.

The Family Court has demonstrated that it is willing to make an order for substituted service using social media. However, a person who must serve documents on another person must ensure they use all reasonable attempts to comply with the *Family Law Rules* before seeking an order they serve another person by Facebook or some other social media platform.

Get help from a family lawyer

At Meillon & Bright, we have extensive experience working on all kinds of applications in the Family Court:

- [divorce](#);
- [parenting and childrens' matters](#);
- [financial agreements](#);
- [domestic violence matters](#); and
- [property proceedings](#).

We can assist you with complying with the requirements of the *Family Law Rules* for your specific family law matter.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.