



— THE PI-TO-PUBLICATION GUIDE • NORTH CAROLINA

Finding a Spouse *You Cannot Locate*

A step-by-step North Carolina guide: the search ladder, what to ask a private investigator for, the publication rules, and the affidavit.

READ PAGE 2 BEFORE YOU DO ANYTHING ELSE

There is one mistake in this process that cannot be undone. It is not a mistake about searching, and it is not a mistake about publishing. It is a mistake about the order you do things in. It is on the next page. It takes ninety seconds to read.

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READ THIS FIRST

The Order of Operations

You can get divorced in North Carolina without finding your spouse. That part is solvable, and this guide walks you through it.

What is not solvable is this:

THE MISTAKE THAT CANNOT BE UNDONE

An absolute divorce entered in North Carolina destroys your right to equitable distribution unless you asserted that right **BEFORE** the divorce judgment was entered. [N.C. Gen. Stat. § 50-11\(e\)](#)

Alimony and postseparation support work the same way. A divorce does not affect claims that were pending when it was granted — which is another way of saying it ends the ones that were not.

[§ 50-11\(c\)](#)

The North Carolina court system states it plainly: if nobody files for property division or spousal support before the absolute divorce is final, both parties permanently lose the right to ask a court for it.

Now put that next to the rest of this guide. A person who cannot find their spouse searches, publishes, gets the divorce, and does everything the rules allow — and if they did not file the money claims first, the house, the retirement account, and the support are gone. Not delayed. *Gone.*

THE ESCAPES ARE NARROWER THAN PEOPLE ASSUME

There are two statutory windows, and it matters who they protect. One lets a DEFENDANT who was served by publication and did not appear file for equitable distribution within six months of the judgment.

[§ 50-11\(e\)](#)

The other preserves equitable distribution for six months where the divorce court lacked personal jurisdiction over the absent spouse, and allows the divorce itself to be challenged in that action. [§ 50-11\(f\)](#)

Both are six months. Both are about property division, not alimony. Neither one is aimed at the person who did the searching and the publishing. Do not plan around them.

SO THE ORDER IS

- 1 File every claim you might want — equitable distribution, postseparation support, alimony, custody, child support — in the same action.
- 2 Search, and document the search.
- 3 Serve by publication if the search fails.
- 4 **Take the divorce LAST.**



FILING AND WINNING ARE TWO DIFFERENT THINGS

Filing a claim preserves it. Whether the court can enter a judgment on it is a separate question that depends on personal jurisdiction over your spouse — see page 11.

A preserved claim can be pursued later, if your spouse surfaces, is located, or submits to the court. A claim you never filed cannot be pursued at all, ever, no matter what turns up.

Filing keeps the door open. Jurisdiction is what lets you walk through it. Do not close the door yourself because you were in a hurry to be divorced.

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STEP 1

Start the Search Log Today

Service by publication is only available when a party cannot, with due diligence, be served by personal delivery, registered or certified mail, or an authorized delivery service. [N.C. Gen. Stat. § 1A-1, Rule 4\(j1\)](#)

There is no checklist for due diligence. The North Carolina Court of Appeals has said so directly — it is assessed case by case. A judge is asking one question: **did this person genuinely try, or did they go through the motions so they could publish and be done?**

That question gets answered by your log, not your memory. Fill in a row every time you try something, including the things that fail. Especially the things that fail.

[illegible]

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STEP 2

The Search Ladder

Work from free to expensive. Stop when you find them. **Most people are found on the first two rungs.**

RUNG		WHAT IT INVOLVES	APPROXIMATE COST
1	Free and immediate	Last known address. Employer. Mutual contacts. Social media, including accounts under a nickname. The other parent of their children. The last court filing they made anywhere.	\$0 — do this exhaustively before spending anything
2	Public records	County property records, voter registration, Secretary of State business filings, court indexes in counties where they have lived, motor vehicle records where lawfully available.	\$0 to nominal copy fees — and verifiable, which judges like
3	Sheriff or process server attempt	An actual attempt at the best address you have. Even a failed attempt produces a return documenting the failure.	Sheriff's statutory service fee; private servers more
4	Paid skip trace	A commercial database search returning address history, phone numbers, relatives, and associated records.	Roughly \$20–\$150 depending on vendor and depth
5	Licensed private investigator	A locate engagement: database work plus field verification, ending in a written report of what was searched and what was found.	Commonly a few hundred to roughly \$1,500 for a locate
6	Publication	Newspaper notice, three weeks, plus the affidavit. The last step — and the one the court reviews backward.	Often several hundred dollars in publication charges

Costs vary by county, vendor, and newspaper. Get current quotes before you budget — the figures above are ranges, not prices.

TWO THINGS THAT ARE NOT SERVICE

- ⊗ Serving a relative who does not live with your spouse. That is not service.
- ⊗ Email, text, or a social media message. North Carolina does not authorize email for service of a summons and complaint. [Rule 4\(j6\)](#) You may absolutely use email and social media to FIND someone — that is good search evidence — but service has to be made by an authorized method.

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STEP 3

Hiring a Private Investigator

You are not hiring an investigator to find your spouse. You are hiring one to build a record that you tried.

THE REFRAME THAT CHANGES THE ENGAGEMENT

Those are two different jobs. They produce different work and different invoices. The first ends when the subject is located. The second ends with a written report regardless of outcome — because the report is what supports your affidavit.

An investigator who says “I couldn’t find him” on the phone has given you nothing you can file. An investigator who hands you eight pages describing a thorough, unsuccessful search has given you exactly what the court needs.

ASK FOR THESE FIVE THINGS IN WRITING

- ☐ A written locate report describing every database and source searched, with dates.
- ☐ The results of each search, including the negative results.
- ☐ Field verification of any address developed — not just a database hit.
- ☐ A statement of what could not be determined, and why.
- ☐ A signed affidavit from the investigator, or a report in a form your attorney can attach to one.

A REQUEST YOU CAN COPY AND SEND

SUBJECT Locate engagement — documented search for service of process

I need a locate on an individual for the purpose of serving legal process in a North Carolina family law matter. I want to be clear about the deliverable: I need a documented search, not only a result.

Please quote an engagement that includes (1) a written report listing every database and source searched with dates, (2) results including negative results, (3) field verification of any address developed, (4) a statement of what could not be determined and why, and (5) a signed affidavit, or a report formatted so my attorney can attach it to one.

Please confirm your North Carolina license number, your flat fee or hourly rate with an estimated range, and whether the written report is included in that fee or billed separately. **If the subject is not located, I still need the report.**

That last sentence is the one that matters. Say it before the engagement starts, not after.

YOUR BUDGET

Fill this in before you start, so the number does not surprise you halfway through.

ITEM	ESTIMATED	ACTUAL
Court filing fee	\$	\$
Sheriff or process server attempts	\$	\$
Skip trace	\$	\$
Private investigator locate	\$	\$
Newspaper publication (get a quote first)	\$	\$
Attorney fee — ask for a flat or capped number	\$	\$
Total	\$	\$

If cost is the thing making you hesitate, say so on your first call to any attorney. It is a normal question and it deserves a straight number.

04 | STEP 4 Publication, Rule by Rule

The mechanics are set out in Rule 4(j1), and they are specific. Miss one and the service is vulnerable long after you thought the case was over.

- ☐ Publish once a week for three successive weeks.
- ☐ Publish in a newspaper qualified for legal advertising under [N.C. Gen. Stat. §§ 1-597 and 1-598](#)
- ☐ Publish in a paper circulated in the area where you believe your spouse is located.
If you have no reliable information about where they are, publish in a paper circulated in the county where the case is pending – for a Mecklenburg County case, a Charlotte-area paper.
- ☐ Mail a copy of the notice to your spouse at or immediately before the first publication, if their post office address is known or can be found with reasonable diligence.
The mailing is excused only if the address genuinely cannot be determined.

WHAT THE NOTICE ITSELF HAS TO SAY

The rule prescribes the content and gives a form. The notice must identify the court and the title of the action, be directed to the person being served, state that a pleading seeking relief against them has been filed (or is required to be filed by a stated date), state the nature of the relief sought, be signed by you or your attorney with a post office address, and – the detail people miss – **require a response within 40 days of the date stated in the notice.**



FORTY DAYS, NOT THIRTY

An ordinary summons gives 30 days to answer. A published notice gives 40 days from the date stated in it. Use the wrong number and the notice is defective.

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STEP 5

The Affidavit

After publication you file an affidavit with the court. Rule 4(j1) and Rule 4(j2)(3) tell you what has to be in it. Before default judgment can be entered on published service, the affidavit must show three things:

- ☐ The circumstances warranting the use of service by publication.
This is where your search log becomes evidence.
- ☐ Any information you had regarding the location of the party served, which is what determined the area in which the notice ran.
- ☐ Proof of the publication and the mailing, in accordance with [N.C. Gen. Stat. § 1-75.10\(a\)\(2\)](#)

One protection worth knowing: a party who received timely actual notice cannot later attack a default judgment on the ground that the due diligence requirement was not met. [Rule 4\(j4\)](#) That helps you if your spouse surfaces. It does nothing for you if they never got notice at all — **which is exactly why the search log matters.**

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STEP 6

Watch the Summons Clock

Service under Rule 4 must be made within 60 days of the date the summons is issued. Past that, the action stays alive as to that party only if you get an endorsement from the clerk or sue out an alias and pluries summons, each available within 90 days of the last summons or endorsement. [Rule 4\(c\), \(d\)](#) Publication takes three weeks minimum plus a 40-day response window, so this clock matters more here than in an ordinary case.

MILESTONE	DATE
Complaint filed	
Summons issued	
60-day service deadline (summons issued + 60)	
Endorsement or alias and pluries deadline, if needed	
First publication	
Notice mailed (or reason omitted)	
Second publication	
Third publication	
Response deadline stated in notice (40 days)	
Affidavit of service filed	

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KNOW THE LIMITS

What Publication Can and Cannot Get You

Ending a marriage is a decision about status, and a North Carolina court can make it without ever having authority over your spouse personally. Ordering someone to pay you money is different. That requires authority over the person.

CLAIM	PUBLICATION ALONE?	WHY
Absolute divorce	Generally yes	The court is deciding marital status, which does not require power over your spouse personally.
Child custody	Often yes	Custody jurisdiction under the UCCJEA turns on the child's home state, not on personal jurisdiction over the absent parent.
Child support	Generally no	A support order is a money judgment against a person. Under UIFSA the court needs personal jurisdiction over the parent who would pay.
Alimony and postseparation support	Generally no	Same reason. Spousal support is an order against a person.
Equitable distribution	Generally no	Dividing property between two people requires authority over both of them.

Whether a North Carolina court has personal jurisdiction over your spouse is a separate question from how you serve them, and it depends on their connection to this state — where you lived as a married couple, where they lived, what they own here. **Publication is a method of giving notice. It is not a way of manufacturing authority the court does not otherwise have.**



IF YOU ARE IN A CUSTODY DISPUTE, READ THAT TABLE TWICE

The custody line and the child support line point in opposite directions, and that is not a drafting error.

A parent who cannot find the other parent can often still get a custody order. Getting a support order out of the same person is the harder problem, and the one that takes longer. Filing both and pursuing custody first is often the practical sequence.

FOR THE OTHER SIDE OF THIS PROCESS

If You Are the Person Who Cannot Be Found

Some people who cannot be located arranged it that way, and some of them left to be safe. If that is you, this page is for you and not for the person searching.

Being served does not mean being located

North Carolina's Address Confidentiality Program, run by the Attorney General's office, gives survivors of domestic violence, sexual offense, stalking, and human trafficking a substitute address to use in place of their real one, forwards their first-class mail, and designates the Attorney General as their agent for service of process. [N.C. Gen. Stat. Ch. 15C](#) Legal papers can reach you without your address reaching anyone.

A protective order is a separate tool

North Carolina's domestic violence protective order statute, Chapter 50B, exists alongside a divorce or custody case, not instead of it. You do not have to wait for anything else to be resolved to ask for one.

Ignoring a published notice is the worst option available

If a notice runs and nobody responds, the case proceeds without you and orders get entered without your side of it. Responding does not require disclosing where you live — that is something a lawyer or an advocate can help you do.

**TALK TO SOMEONE BEFORE YOU RESPOND TO ANYTHING**

North Carolina Address Confidentiality Program — Office of the Attorney General.

National Domestic Violence Hotline — 1-800-799-7233, available 24 hours a day.

In Mecklenburg County there are advocates who do this every day, and the call costs nothing.

CAPE FEAR FAMILY LAW

Getting divorced is the easy part. Not losing your claims is the part to get right.

Talk to a Board-Certified Family Law Specialist before you file.

[SCHEDULE A CONSULTATION](#)

Connor Green practices in Mecklenburg County and appears in the Charlotte courthouse.
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PLEASE READ THIS PART.

This guide is general legal information about North Carolina law and procedure. It is not legal advice, it does not create an attorney-client relationship with Cape Fear Family Law or with any attorney at the firm, and it is not a substitute for advice about your own case. Service of process and jurisdiction are fact-specific, deadlines are short and unforgiving, and a mistake here is often discovered only after it cannot be fixed. Rules and statutes change. Speak with a licensed North Carolina family law attorney before you file, publish, or take a divorce judgment.

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