

MI IQ

Michigan Interstate Issues and Questions Serving UIFSA Notice of Registration

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Question: What type of service is required for sending a UIFSA Notice of Registration?

Answer: UIFSA Notices of Registration can be served by mail or personal service. Reasonable minds can argue about the fairness of enforcing right away, we are unaware of any statutory basis for stating that personal service is a mandatory prerequisite. Interpretations for both are possible, when someone challenges the manner of service via an appeal, the appellate court will decide the single answer.

An important point to remember is that these actions are not to establish new obligations, rather just to extend the enforcement (and potentially modification) of an existing obligation of which the parent should already be aware. The court and FOC should not challenge the validity or enforceability of an order issued by another state; that is the duty of a party to prove and the initiating agency to rebut.

MCL 552.1603(1) states orders are registered when filed. MCL 552.1621 says that when the order is registered, the registering tribunal shall notify the non-registering party. MCR 3.214(C) requires the FOC to send all notices and copies of orders required under UIFSA. MCR 3.203 covers the manner and place for service of notice and court papers in domestic relations cases.

Manner of Service: Since this involves a notice and not a “summons and complaint”, personal service under MCR 2.105 would not apply (MCR 3.203(A)). Since the court retains jurisdiction (to enforce a registered order), MCR 3.203(A)(1) applies; since UIFSA and other court rules do not require a specific manner of service for registration notices, this sub-rule appears to permit service by mail under MCR 2.107(C)(3), at a party’s last known mailing address.

Place of Service –last known mailing address: Since it is a foreign order and does not include a requirement to notify the FOC of any address changes, MCR 3.203(B) does not apply. So MCR 3.203(C) applies because there has already been a summons and complaint (equivalent in the foreign state prior to this order) but no provision requiring parties to notify the FOC of changes in address. The address provided in the pleadings would serve as the last known address, unless that parent has reported a more recent address to the FOC.

Registration occurs immediately upon filing with the tribunal and the payer is subject to all enforcement at that point (MCL 552.1308 list), subject to having the enforcement being void based upon a successful contest to its registration.

Any person contesting registration will have received notice at some point between registering (and mailing) and when that person initiates a contest. At the time it hears the contest to registration, the court determines (1) whether the person contested the validity or enforcement of the registered order in a timely manner, so the court actually hear the contest, and (2) whether there is a valid reason not to register/recognize the order and arrears or to vacate the registration. The date only matters in determining whether the contest was timely or not. MCL 552.1623(1) says that the 20 days runs from the date of mailing or personal service of the registration notice. Whether the court counts from the mailing date or some later date, the party must still successfully challenge the validity or enforcement of the registered order.

Any type of service is subject to rebuttal. If a person challenges service successfully, that person is not precluded from raising issues that could have been raised within 20 days of service. A proof of service/ mailing creates a presumption of receipt that can be rebutted. Regular mail is easier to rebut than personal service or restricted delivery mail.

The question now becomes how best to give notice of the registration. If we use restricted mail, we know when and to whom it was served, but it is harder to effect. If we use regular mail, it will likely arrive faster, but we will not have proof that the person received it. Either method has flaws. Given the immediate enforceability of order, FOCs may want to err on the side of quickly giving notice. The restricted mail or service only really protects the person sending it; in most cases, it delays the person actually getting notice. Given that these orders will be enforced immediately, judges might find the easier service more palatable.

One option is to send notice both via first-class regular mail and also by restricted delivery. Using a restricted delivery notice to back up first class mail will help document what happened, whether the mail gets returned, is signed for, or is refused.

Please direct any friend of the court policy or procedural questions or interstate issues to Steve Capps at cappss@courts.mi.gov or Bill Bartels at bartelsb@courts.mi.gov or 517-373-2468.