

# Witnessing scenario 2

## Affidavit of Service (Divorce)

### Instructions

This activity has been designed for you to use in conjunction with the JP Branch webinar on witnessing family law documents. If you are not able to print this activity, you can still participate as the answer will be discussed during the webinar. Just have the activity open on your device to follow along.

In this scenario your client, Tara Tae Fontana, is applying for divorce from her former spouse, Joseph Jo Fontana, who has been served the divorce application via post. Tara now needs to prove to the Federal Circuit and Family Court of Australia (FCFCOA) that service has taken place.

Tara presents to you a partially completed Divorce Service Kit. She also presents her current photo identification card, which satisfies you of her identity. You explain you will need to check over the affidavit kit and you ask if Tara would like to make an oath or affirmation, Tara said she would like to swear on the bible.

Following the suggested witnessing practices in chapter 4.8 – Witnessing family law documents in your handbook, go ahead and witness Tara's service documents.

### This activity kit contains:

- partially completed Divorce Service Kit\*
- link to ['How do I serve a divorce'](#)

### The resources you will need:

- your seal of office
- [Duties of the Justice of Peace Handbook](#) or the [Duties of the Commissioner for Declarations Handbook](#)
- Bible
- notepad and pen

\*To reduce the file size of this document, the instructions from the Divorce Service Kit (do it yourself) have been removed. This will in no way interfere with your activity and if you wish, you can view the [complete do it yourself kit](#) on the FCFCOA website PDF (413.76 KB) DOCX (234.44 KB).



FEDERAL CIRCUIT  
AND FAMILY COURT  
OF AUSTRALIA

# Divorce Service Kit



[www.fccoa.gov.au](http://www.fccoa.gov.au)

Live chat on the website

1300 352 000

It is important to read this kit before serving an Application for Divorce on your spouse

#### This kit includes:

- Glossary of legal words
- Helpful information (pages A-B)
- Step by step guide (pages C-F)
- *Affidavit of Service by Post (Divorce)*
- *Affidavit of Service by Hand (Divorce)*
- *Acknowledgment of Service (Divorce)*
- *Affidavit Proving Signature (Divorce)*

This kit provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The court cannot provide legal advice.



**NOTE:** Divorce service documents should be filed online via the Commonwealth Courts Portal [www.comcourts.gov.au](http://www.comcourts.gov.au)

For more information see *How do I serve a divorce?* at [www.fccoa.gov.au/howdoi](http://www.fccoa.gov.au/howdoi)

# AFFIDAVIT OF SERVICE BY POST (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify):

**You must attach the signed Acknowledgment of Service (Divorce) to this form.**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A

### The applicant

1. Name

Family name <i>Fontana</i>
Given names <i>Tara Tae</i>

## Part B

### Details of service

2. Person served (respondent)

Family name <i>Fontana</i>
Given names <i>Joseph Jo</i>

3. Postal address of respondent

<i>PO Box 100 Big City</i>
State <i>Queensland</i> Postcode <i>4000</i>

4. Date of posting

DD / MM / YYYY
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5. What documents were posted?

<input checked="" type="checkbox"/> Application for Divorce
<input checked="" type="checkbox"/> Marriage, Families & Separation brochure
<input type="checkbox"/> Other (give details):

6. Acknowledgment of Service signed

<input checked="" type="checkbox"/> The Acknowledgment of Service (Divorce) is signed by the person named in question 2 above. It is attached to this affidavit.
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## Part C

### Signing

**Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature.**

I  swear /  affirm that:

1. I am the applicant.
2. The person served is my spouse (respondent).
3. The facts set out are true.
4. I recognise the signature on the Acknowledgment of Service (Divorce) as that of my spouse.

Signature
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Place

Date / /

Before me (signature of witness)
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Full name of witness (print name)

- Lawyer  Justice of the Peace  Authorised Staff Member of the Court
- Other (specify):

**The witness must also sign the annexure note on the Acknowledgment of Service (Divorce).**

# AFFIDAVIT OF SERVICE BY HAND (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify):

**The applicant cannot personally serve the respondent.**

**If the respondent signed the Acknowledgment of Service (Divorce), it must be attached to this form.**

Client ID	
File number	
COURT USE ONLY	
Filed at	
Filed on	
Court date	
Court time	

## Part A

## Person serving documents

1. Name
2. Address
3. Occupation
4. Relationship to person served

Family name	
Given names	
State	Postcode

## Part B

## Details of service

5. Person served (respondent)
6. Date documents served
7. What documents were served?
8. How were the documents served?

Family name	
Given names	
/ /	
<input type="checkbox"/> Application for Divorce <input type="checkbox"/> Marriage, Families & Separation brochure <input type="checkbox"/> Other (give details):	
<input type="checkbox"/> I handed them to the person at (give address):  <input type="checkbox"/> I attempted to hand them to the person at (give address):  <input type="checkbox"/> The person refused to accept them. I put them down and left them in the presence of the person and told the person what they were.	

## Part C

## Identity of person served

9. How was the person served identified?

(Please tick all that apply)

- The person is shown in the attached photograph
- I saw the person sign the attached Acknowledgment of Service (Divorce)
- I know the person (explain how you know the person below):
- I spoke to the person at the time of service (give details of the conversation you had with the person relating to identity):

## Part D

## Signing

Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature.

I  swear /  affirm that:

1. I am the server.
2. The facts set out are true.

Signature

Place  
Date     /     /

Before me (signature of witness)

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other (specify):

**The witness must also sign the annexure note on the Acknowledgment of Service (Divorce).**

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# ACKNOWLEDGMENT OF SERVICE (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify):

**This form must be attached to EITHER:  
an Affidavit of Service by Post (Divorce)  
OR  
both an Affidavit of Service by Hand (Divorce) and  
Affidavit Proving Signature (Divorce).**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A

### The applicant

1. Name

Family name <i>Fontana</i>
Given names <i>Tara Tae</i>

## Part B

### Details of service

2. Person served (respondent)

Family name <i>Fontana</i>
Given names <i>Joseph Jo</i>

3. Date documents served

DD / MM / YYYY
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4. What documents were served?

<input checked="" type="checkbox"/> Application for Divorce
<input checked="" type="checkbox"/> Marriage, Families & Separation brochure
<input type="checkbox"/> Other (give details):

## Part C

### Signing

I acknowledge service of the documents named in question 4 above.

Signature <i>JJFontana</i>
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Date *DD / MM / YYYY*

OR

I am the lawyer for the person served. On behalf of my client, I acknowledge service of the documents named in question 4 above.

Lawyer's signature
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Date / /

Name of lawyer (print name):

Lawyer's code:

Address of lawyer:

#### ANNEXURE NOTE — Witness to complete only if this form is attached to an affidavit.

This Acknowledgment of Service (Divorce) is referred to in the affidavit of (name):

Sworn/affirmed at (place):

On (date):

Before me (witness to sign):

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other (specify):

# AFFIDAVIT PROVING SIGNATURE (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia
- Family Court of Western Australia
- Other (specify):

**You must attach the signed Acknowledgment of Service (Divorce) to this form.**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A The applicant

1. Name

Family name <i>Fontana</i>
Given names <i>Tara Tas</i>

## Part B Identifying signature

2.

**Acknowledgment of service signed (respondent)**

The attached Acknowledgment of Service (Divorce) is signed by:
Family name <i>Fontana</i>
Given names <i>Joseph Jo</i>

## Part C Signing

**Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature.**

I  swear /  affirm that:

1. The facts set out are true.
2. I recognise the signature on the Acknowledgment of Service (Divorce) as that of my spouse.

Signature
-----------

Place  
Date / /

Before me (signature of witness)
----------------------------------

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other (specify):

**The witness must sight the signature of the person served on the Acknowledgment of Service (Divorce).**