

You've Got Mail

November 2014

By: [James C. Milton](#)

Notice of legal proceedings is accomplished through a variety of methods. Some types of notice require more safeguards than others. As one might expect, the requirements on notice of legal proceedings are generally higher in those instances where the stakes are higher.

For example, in order to give notice to a defendant that he has been sued in a civil lawsuit, the plaintiff is required to serve the summons and petition through a sheriff, a licensed process server, or certified mail with restricted delivery. Generally speaking, if the plaintiff cannot accomplish service through these methods, then the court can specify another method “reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard.”

Notice requirements are even more lenient when it comes to probate proceedings. When initiating a probate proceeding, the petitioner must give notice to the known heirs using regular mail. If any of the heirs are unknown, the petitioner must give notice through publication in the newspaper.

Guardianship proceedings are similar to probate, except that the proposed ward in a guardianship must be served personally.

An action to terminate a father’s parental rights ranks high on this list. A petition to terminate parental rights must be served in the same way as service of process in a civil lawsuit.

When a minor is placed for adoption within the first 14 months of the child’s life, the father can lose his parental rights if he failed to exercise his parental rights. The father has an opportunity interest in forming a father-child bond with his offspring. If the father exercises his parental rights, it is more difficult to terminate those rights.

But fathers don’t always know about their offspring. In the adoption context, due process requires that the child’s mother (or the adoption agency) must notify the father of the pregnancy and birth. If the father is not notified, he is deprived of the opportunity to exercise his parental rights. “Under these circumstances, his parental rights cannot be terminated and his consent is necessary for adoption.”

It is unclear exactly how a mother is required to notify the child’s father of the child’s birth. The Oklahoma Supreme Court recently held that a Facebook message is not enough because it is “an

unreliable method of communication.”

Dissenting justices pointed out that other methods of communication might be equally unreliable. “Face-to-face discussions can be denied; letters can remain unopened; and faxes can be lost.”

Attorneys

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