

## Serving a Respondent Who Lives Outside the U.S.

Texas Legal Services Center (<https://texaslawhelp.org/directory/legal-resource/texas-legal-services-center>) [1]

### Do I have to serve a respondent who resides outside of the United States?

Yes. All the respondents to a court case must be properly served—regardless of whether they live in the United States or in another country.



See **How to Serve the Initial Court Papers (Family Law)** ([http://https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law](https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law)) [2].

### Can the respondent be served normally if they are visiting Texas?

Yes. If the respondent is in Texas (for business, to visit, etc.), they can be personally served with the court papers by a constable, sheriff, or private process server. Typically, this is much easier than attempting to serve the respondent while they're in a foreign country.

### Can the respondent sign a waiver of service?

Yes. The respondent can sign a **waiver of service** (<https://texaslawhelp.org/faq/what-waiver-service-divorce>) [3], so that you don't have to go through the process of officially serving them. However, waivers must be signed in front of a notary. So, the respondent must either go to a notary in their country or go to a U.S. Embassy or Consulate, where notary services are typically available.

### The respondent will not sign a waiver and will not be traveling to Texas, how can I serve them?

Rule 108a of the Texas Rules of Civil Procedure Rule states that a party residing in a foreign country can be served in the following ways:

1. In the manner prescribed by the law of the country where the party resides

2. As directed by the foreign authority in response to a letter rogatory
3. In accordance with Rule 106 of the Texas Rules of Civil Procedure (this rule governs the standard procedure for serving a party in Texas)
4. Pursuant to any applicable treaties or conventions
5. By diplomatic or consular officials when authorized by the U.S. Department of State
6. By any other means directed by the court that is not prohibited by the law of the country where the party is to be served.



### What is a letter rogatory?

A **letter rogatory** (also called a letter of request) is a formal request from a U.S. court to a foreign court for assistance in serving the respondent to a case. It is issued by the court where the case is pending to a court in the country where the respondent resides. Typically, a letter rogatory is only necessary if the country where the respondent resides is not a signatory to the Hague Service Convention.

### What is the Hague Service Convention?

The Hague Service Convention was drafted to simplify and standardize the international service process. Thus, the preferred method for serving a party in a foreign country is to serve them under the Hague Service Convention. However, this method of service can only be used if the country where the respondent resides is a signatory to the Convention. You can see which countries are signatories to the Convention **here (<https://www.hcch.net/en/instruments/conventions/status-table/?cid=17>)** [4].

NOTE: The Hague Service Convention does not apply if you do not know the address of the party that needs to be served.

### Is Mexico a signatory to the Hague Service Convention?

Yes, and service under the Hague Service Convention is the preferred method for serving a party residing in Mexico.

## How do I serve someone under the Hague Service Convention?

1. You must have your petition translated into the language required by the country where the party is to be served. For example, if you are serving a party in Mexico, you will need to have your petition translated into Spanish.
2. Request an original citation or summons from the court clerk where your case was filed.
3. Have the citation or summons translated into the appropriate language (e.g. Spanish if serving a party in Mexico).
4. Fill out the appropriate Request for Service Abroad form available on the Hague Conference website here (<https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65>) [5].  
For example, for Mexico, you would need to use the trilingual Spanish-English-French form.
5. An original and copy of the English version and the translated version of the petition/complaint, citation, and Request for Service Abroad must be sent to the appropriate Central Authority. Each signatory country to the Hague Service Convention has a designated Central Authority that handles foreign service requests. You can find the Central Authority for each country here (<https://www.hcch.net/en/instruments/conventions/authorities1/?cid=17>) [6].
6. After sending the appropriate documents, you'll need to wait for a response, which can take several months. Typically, the Central Authority will send a "return of service" to the District Clerk where you filed the case, so you may need to periodically check with the District Clerk to see if they have received anything.

## What if I don't know their address?

If you don't know the address of the respondent, you cannot do service under the Hague Service Convention. If you are dealing with a family law case, you may be able to do service by posting or publication.

Read this article to learn more about service by posting: **Service by Posting (when you can't find your spouse in a divorce without kids)**  
**(https://texaslawhelp.org/article/service-posting-when-you-cant-find-your-spouse-divorce-without-kids)** [7]

Read this article to learn more about service by publication: **Service by Publication (when you can't find the other parent)**.  
**(https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent)** [8]



### **Do I need to hire an attorney to serve a party in a foreign country?**

No. However, because the process for serving a respondent in a foreign country can be long and complicated, it is helpful to hire a lawyer if possible.

© TexasLawHelp.org - **Source URL:** https://texaslawhelp.org/article/serving-respondent-who-lives-outside-us

### **Links**

- [1] https://texaslawhelp.org/directory/legal-resource/texas-legal-services-center
- [2] http://https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law
- [3] https://texaslawhelp.org/faq/what-waiver-service-divorce
- [4] https://www.hcch.net/en/instruments/conventions/status-table/?cid=17
- [5] https://www.hcch.net/en/publications-and-studies/details4/?pid=6560&dtid=65
- [6] https://www.hcch.net/en/instruments/conventions/authorities1/?cid=17
- [7] https://texaslawhelp.org/article/service-posting-when-you-cant-find-your-spouse-divorce-without-kids
- [8] https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent