

**SUPERIOR COURT OF THE DISTRICT OF [INSERT STATE/JURISDICTION]
FAMILY DIVISION--DOMESTIC RELATIONS BRANCH**

PLAINTIFF)	
Attorney's Office)	
[INSERT ADDRESS])	
Plaintiff,)	
)	
v.)	DR No. _____
)	
DEFENDANT)	
Attorney's Office)	
[INSERT ADDRESS])	
Defendant)	

MOTION TO DISMISS FOR INADEQUATE SERVICE OF PROCESS

Defendant, by and through counsel, submits a Motion to Dismiss on the grounds of inadequate service of process under District of Columbia Superior Court Rules of Civil Procedure section 12(b)(5) [INSERT RELEVANT COURT RULE IN YOUR STATE/JURISDICTION]. Defendant states the following in support of the request:

1. Defendant received the petition to terminate the parental rights and Notice of Hearing and Order to Appear on [INSERT DATE].
 - a. Defendant is a native speaker of [INSERT LANGUAGE] and is not proficient in the English language (or insert other language the notice appeared in).
2. Due process requires that a Defendant be given adequate and timely notice of an action brought against him/her in order to afford the Defendant an opportunity to defend or accept the claims.

3. Due process is not met where a Defendant is unable to read, speak or comprehend the language in which notice to the Defendant is provided.
4. Due process prohibits a Defendant from being deprived of life, liberty or rights with out first, being granted due process.
5. Moreover, Plaintiff failed to adequately communicate the case plan to Defendant as required by law.
6. Not providing information in a language that the mother understands is akin to providing substandard information, which is a violation of basic rights and due process.
7. The Defendant must be provided with adequate notice of the requirements imposed on her so that she is able to comply with those requirements in order to regain custody of her children.
8. To satisfy due process requirements in this case, Plaintiff should have served Defendant the Notice of Hearing and Order to Appear in her native language, [INSERT NATIVE LANGUAGE] and should have had the notice interpreted for her in her native language if need be.
9. The notice delivered to Defendant was not in her native language nor was the notice translated for her.
10. Defendant did not receive adequate notice of the Hearing and therefore, Defendant requests the Motion to Dismiss be granted.

WHEREFORE, Defendant prays that the court grant Defendant's Motion to dismiss for Inadequate Service of Process.

Respectfully,

[INSERT ATTORNEY NAME]

[State Bar #]

[INSERT FIRM NAME]

Attorney for Defendant

[INSERT ADDRESS]

**SUPERIOR COURT OF THE [STATE/JURISDICTION]
FAMILY DIVISION--DOMESTIC RELATIONS BRANCH**

PLAINTIFF)
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[INSERT ADDRESS])
Plaintiff)
)
)
v.) **DR No.** _____
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DEFENDANT)
Attorney's Office)
[INSERT ADDRESS])
Defendant)

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS FOR INADEQUATE SERVICE OF
PROCESS

1. See "*Improving Access to Services for Persons with Limited English Proficiency*," Exec. Order No. 13, 166, *reprinted at* 65 FR 50121 (August 16, 2000).
2. *Lau v. Nichols*, 414 U.S. 563 (1974)
3. See attached trial brief for language access arguments.

Respectfully submitted,

[INSERT ATTORNEY]
[INSERT BAR NUMBER]

Attorney for Defendant
CERTIFICATE OF SERVICE

I hereby certify that I sent a copy of Defendant's Motion to Dismiss for Inadequate Service of Process. Plaintiff, [INSERT ADDRESS] with proper affixed postage on [INSERT DATE].

[INSERT ATTORNEY NAME]

[STATE BAR #]