

PRO SE OFFICE  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**  
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE  
500 PEARL STREET, ROOM 230  
NEW YORK, NEW YORK 10007

J. MICHAEL McMAHON  
CLERK OF COURT

**INSTRUCTION FOR COMPLETING THE WAIVER OF SERVICE FORMS**

A plaintiff may choose an alternative to serving the defendants with the summons and complaint by offering the defendants the option to waive service of the summons under Rule 4(d) of the Federal Rules of Civil Procedure. This option provides an inexpensive, efficient alternative to effecting service, and can be used by you whether you have paid the filing fee to start the action or have been granted *in forma pauperis* status. To serve under the waiver of service provision, you must mail the following to each defendant:

- **One copy of the complaint;**
- **Two completed copies of the Notice of Lawsuit and Request for Waiver of Service of Summons (signed by you);**
- **Two completed copies of the Waiver of Service of Summons (to be signed by the defendant);**
- **One pre-paid, self-addressed envelope (addressed to you).**

If the defendant agrees to waive service of the summons, s/he will complete the waiver of service form by signing it and returning it to you within thirty (30) days (or sixty (60) days if the defendant is located in a foreign country) of the date you mailed the papers to the defendant. You must then send the Waiver of Service of Summons form signed by the defendant to the *Pro Se* Office for filing. By waiving service of the summons, the defendant will not have to respond to the complaint before sixty (60) days (or ninety (90) days if the defendant is located in a foreign country) of the date of the waiver.

If you do **not** receive a Waiver of Service of Summons form signed by the defendant within the time allowed, you **MUST** serve the defendant with the summons and complaint by one of the other allowed methods and you may later seek any costs for serving the defendant.

**NOTE:** You may **NOT** use the waiver of service method of service if the defendant is the United States, one of its Agencies or Officers, Rule 4(f), a Foreign, State or Local Government, Rule 4(g) or an infant or incompetent person, Rule 4(g).

**NOTICE OF LAWSUIT AND REQUEST FOR  
WAIVER OF SERVICE OF SUMMONS**

TO: (A ) \_\_\_\_\_

as (B) \_\_\_\_\_ of (C) \_\_\_\_\_

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the  
(D) \_\_\_\_\_ Southern \_\_\_\_\_ District of \_\_\_\_\_ New York  
and has been assigned docket number \_\_\_\_\_ (E) \_\_\_\_\_.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) \_\_\_\_\_ days after the date designated below as the date on which this Notice and Waiver is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, \_\_\_\_\_ day of  
this \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff's Attorney  
or Unrepresented Plaintiff

A—Name of individual defendant (or name of officer or agent of corporate defendant)  
B—Title, or other relationship of individual to corporate defendant  
C—Name of corporate defendant, if any  
D—District  
E—Docket number of action  
F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

### WAIVER OF SERVICE OF SUMMONS

TO: \_\_\_\_\_  
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, \_\_\_\_\_, acknowledge receipt of your request  
(DEFENDANT NAME)

that I waive service of summons in the action of \_\_\_\_\_,  
(CAPTION OF ACTION)

which is case number \_\_\_\_\_ in the United States District Court  
(DOCKET NUMBER)

for the \_\_\_\_\_ Southern \_\_\_\_\_ District of \_\_\_\_\_ New York \_\_\_\_\_.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after \_\_\_\_\_,  
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

\_\_\_\_\_  
(DATE) (SIGNATURE)

Printed/Typed Name: \_\_\_\_\_

As \_\_\_\_\_ of \_\_\_\_\_  
(TITLE) (CORPORATE DEFENDANT)

#### Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.