

TO PLAINTIFF

RE: _____ v. _____
_____ CV _____ ()

Your case has now been docketed and assigned a judge. Enclosed are the papers necessary to have your complaint served on the defendants. In any correspondence concerning your case, you **MUST** give the name of the case, docket number and judge's initials, exactly as shown above.

IMPORTANT: If you change your address at any time during your litigation, you **MUST** notify the Court. You **MUST** also notify the defendant(s) or the defendant's attorney of your new address. It is not enough to just put the new address on a letter without indicating that it is a new address. You should write "please note my new address".

YOU MUST HAVE THE SUMMONS AND COMPLAINT SERVED WITHIN 90 DAYS OF THE DATE THE SUMMONS WAS ISSUED. (THIS IS THE DATE WHICH APPEARS ON THE SUMMONS.) IF THE SUMMONS AND COMPLAINT ARE NOT SERVED WITHIN 90 DAYS, YOUR CASE MAY BE DISMISSED. See Rule 4(m) of the Federal Rules of Civil Procedure (which is enclosed for your review). IF YOU CANNOT SERVE THE SUMMONS AND COMPLAINT WITHIN 90 DAYS, YOU MUST WRITE TO THE JUDGE TO ASK FOR ADDITIONAL TIME, EXPLAINING WHY YOU ARE UNABLE TO SERVE YOUR SUMMONS AND COMPLAINT WITHIN THE ALLOTTED TIME.

Enclosed please find the following papers:

- _____ Original summons (the one that has the seal of the Court on it)
- _____ Copies of the summons
- _____ Rule 4 of the Fed. R. Civ. P.
- _____ Waiver of Service forms, including sample and blank forms
- _____ Instructions for Preparing a Motion
- _____ Instructions for Opposing a Motion
- _____ Instructions on How to Amend Your Complaint
- _____ Application for the Appointment of Counsel with cover letter
- _____ Notice of Consent to Trial before a U.S. Magistrate Judge
- _____ Affirmation of Service Form (2)

INSTRUCTIONS FOR HAVING THE DEFENDANT(S) SERVED WITH THE SUMMONS AND COMPLAINT

Now that your case has been filed, you must have the defendant(s) served with the summons and complaint. The Court issues only one original summons, no matter how many defendants are named. We have included the number of copies of the summons necessary to serve each defendant, plus two extra copies. **Do not serve the original summons.** Once all defendants have been served, you must file with the Court's Pro Se Office the **original** summons with the process server's proof-of-service section completed and signed (on the back of the summons). If you do not effect service properly, the case may not move forward.

SERVICE OF THE SUMMONS AND COMPLAINT

1. You must have a *copy* of the **summons and complaint** served by anyone who is over the age of 18 and not a party to the lawsuit. You may not serve the summons and complaint yourself. See generally, Rule 4 of the Federal Rules of Civil Procedure. Service of the summons and complaint can be made on an individual person by physically handing a *copy* of the summons and complaint to the defendant. You may also effect service in other ways as set forth in paragraph 2 below as well as in Section 308 of the New York Civil Practice Law and Rules. Although you may use a friend or relative (as long as the person is 18 years old and not a party to the lawsuit), you may also use a professional, licensed process server. Process servers are listed in the telephone book and in the New York Law Journal. After the defendant(s) has been served, the person who served the summons and complaint must complete the back page of the **original summons**, or s/he may submit a separate affidavit or affirmation of service and attach it to the original summons. You must file the original summons and proof-of-service with the Court.

IMPORTANT: You must return the original summons (with the seal of the Court on it) to the Court, together with proof-of-service. If you do not return the summons with proof-of-service completed, you have not complied with the Federal Rules of Civil Procedure and your case may not move forward.

2. Service on a Company or Government Entity. If the defendant(s) is not an individual person, but is a company or a government entity, the law may require that the summons and complaint be served in a specific fashion, different than service on an individual. You must read Rule 4 of the Federal Rules of Civil Procedure closely and/or have service effected by a professional process server. Rule 4(h) pertains to service upon Corporations and Associations; Rule 4(i) pertains to service upon the United States and its Agencies, Corporations, or Officers; Rule 4(j) pertains to service upon Foreign, State or Local Governments.

3. Waiver of Service. Pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, you yourself may serve the complaint (without a copy of the summons) on **certain defendants** by first-class mail. If applicable, and you elect to serve under this provision, you must send and receive back from each defendant a completed **Waiver of Service** form (see enclosed sample and form), or service will not be deemed complete. If you do not receive the waiver form back from the defendant(s) within 30 days of mailing the form, you must serve the defendant(s) by some other means as provided by Rule 4.

(a) **WAIVER OF SERVICE RULES DO NOT APPLY TO:**

- service upon the United States, its Agencies, Corporations and Officers. Rule 4(i)
- service upon Infants and Incompetent Persons. Rule 4(g)
- service upon Foreign, State or Local Governments. Rule 4(j)

(b) The Waiver of Service Notice and Request forms must be filled out and sent in **duplicate** to each defendant, together with a copy of the complaint. You must also include a **self-addressed stamped envelope**, so that the defendant(s) can return the completed waiver form to you. The original completed forms must be filed with the Court's Pro Se Office, once you have collected all the defendants' completed forms.

(c) The defendant(s) who timely returns an executed waiver form is not required to serve an answer until 60 days after the date the request for waiver of service was sent, or 90 days if the defendant is outside the United States. Rule 4(d)(3).